



County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
<http://cao.lacounty.gov>

DAVID E. JANSSEN
Chief Administrative Officer

June 12, 2007

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First District

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Fifth District

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

**PROPOSED CITY OF INDUSTRY CIVIC-RECREATIONAL-INDUSTRIAL
REDEVELOPMENT PROJECT NO. 4 ADOPTION**

This is a follow-up to my memorandum of March 29, 2007, in which we advised your Board of the Preliminary Report issued by the City of Industry Urban Development Agency (Agency) on the proposed Project Area No. 4 adoption. As noted in the March report, Industry is proposing to adopt a new project area of approximately 291 acres in the northwestern portion of the City.

At a meeting with Agency staff on May 21, 2007, County staff expressed concerns that the proposal did not conform to current Community Redevelopment Law (CRL). After numerous site visits, analysis of the Agency's findings, and negotiations with Agency staff, we were unable to reach a satisfactory resolution. Therefore, to preserve your Board's options in determining a potential course of action, we will file the attached Statement of Objections with the City Agency consistent with their public hearing on this project scheduled for June 13, 2007. Failure to voice opposition at the hearing could preclude the County from legally challenging the proposed project at a later date.

After presentation of the County's Objections, the City will be required to respond to the points raised. Should this process not resolve the County's concerns, your Board may wish to consider litigation.

The Statement of Objections addresses the following:

- The project area includes 100 parcels and only 25 are identified as blighted by the Agency. Of these 25 parcels, County staff believes that less than 10 meet the blight requirements under CRL.

- Some of the conditions present at parcels identified by the Agency as “blighted” appear to be code enforcement violations that could be reversed or alleviated through routine enforcement, and therefore, do not require redevelopment.
- The Field Survey tool developed by the Agency’s consultant was too broad. According to the Agency’s methodology, a building is considered unsafe or unhealthy for persons to live or work if there was: peeling paint; overgrown ivy on the building wall; or if a roof had missing shingles at the eaves. County staff believes that using such criteria is inconsistent with CRL and court decisions.
- The Agency claims that various existing facilities should be considered blighted because, in their opinion, they were substandard, defective, or of obsolete design/construction by the mere fact that these buildings do not conform to present-day development/construction standards. However, the majority of these facilities are in-fact occupied and house on-going business establishments that experience little to no turnover in ownership.
- The County disagrees with the Agency’s use of the concept, external obsolescence, in order to include areas that do not meet the definition of blight as stated in CRL. The Agency’s approach violates Health & Safety Code § 33320.1 subd. (b)(2), which states “. . . Parcels that are not blighted shall not be included in the project area for the purpose of obtaining the allocation of taxes from the area pursuant to Section 33670 without other substantial justification for their inclusion.” The Agency has not provided substantial justification for the inclusion of these non-blighted parcels.

If you have any questions, please call me or your staff may call Karen Herberts of this office at (213) 974-1329.

DEJ:MKZ
MLM:KH:pg

Attachment

c: Raymond G. Fortner, County Counsel
J. Tyler McCauley, Auditor-Controller



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DAVID E. JANSSEN
Chief Administrative Officer

June 12, 2007

Jodi Scrivens
City Clerk of the City of Industry
15651 East Stafford St.
City of Industry, CA 91744

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

Dear Ms. Scrivens:

**PROPOSED CITY OF INDUSTRY CIVIC-RECREATIONAL-INDUSTRIAL
REDEVELOPMENT PROJECT NO. 4 ADOPTION**

Pursuant to Health and Safety Code Section 33362, the County of Los Angeles hereby submits its Statement of Objections to the proposed City of Industry Redevelopment Project No. 4 Adoption. The County believes the Agency, in its Report to Council, has not complied with Community Redevelopment Law (CRL).

It should be noted that the County expressed its concern to City staff on May 21, 2007, that the proposed project did not appear to be consistent with CRL on several counts. Attached is a detailed report expressing the County's objections to the proposed project. Pursuant to Health and Safety Code Section 33363, the County respectfully requests your legislative body's good faith reasoned analysis of, and response to the County's objections.

If you have any questions regarding this submission, please call Karen Herberts of this Office at (213) 974-1329.

Sincerely,

A handwritten signature in black ink, appearing to read "David E. Janssen", is written over the typed name and title.

DAVID E. JANSSEN
Chief Administrative Officer

DEJ:MKZ:
MLM:KH:pg

Attachment

2007-06 Industry Redevelopment Project No. 4 Ltr to Scrivens 06-12-07

County of Los Angeles

Statement of Objections

Industry Civic-Recreational-Industrial Redevelopment Project No. 4

County of Los Angeles
Statement of Objections
to the proposed adoption of the
Industry Civic-Recreational-Industrial Redevelopment
Project No. 4

In accordance with Health and Safety Code, § 33363, the County of Los Angeles (County) submits the following objections to the proposed adoption of the Civic-Recreational-Industrial Redevelopment Project No. 4.

The Industry Urban-Development Agency (Agency) has not shown that both physical and economic conditions of blight are so prevalent and so substantial that it causes a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical and economic burden on the community, and that it cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment. [Health & Safety Code §§ 33030, 33031]

Health & Safety Code § 33030 define blighted areas as follows:

(a) It is found and declared that there exist in many communities blighted areas that constitute physical and economic liabilities, requiring redevelopment in the interest of the health, safety, and general welfare of the people of these communities and of the state.

(b) A blighted area is one that contains both of the following:

(1) An area that is predominantly urbanized, as that term is defined in Section 33320.1, and is an area in which the combination of conditions set forth in Section 33031 is so prevalent and so substantial that it causes a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical and economic burden on the community that cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

(2) An area that is characterized by one or more conditions set forth in any paragraph of subdivision (a) of Section 33031 and one or more conditions set forth in any paragraph of subdivision (b) of Section 33031.

(c) A blighted area that contains the conditions described in subdivision (b) may also be characterized by the existence of inadequate public improvements or inadequate water or sewer utilities.

Health & Safety Code §33031 further sets forth "conditions" of physical and economic blight.

METHODOLOGY

In order to quantify physical blight, the Agency used a "Field Reconnaissance" data collection method consisting of 40 weighted indicators as identified by Urban Futures Incorporated, consultant. A Primary Blight Indicator was identified as exterior structural walls which are deteriorated to such an extent they are likely to collapse and cause

severe structural failure, and assigned 20 points. Blight indicators which were considered to be half as serious as the primary were assigned 10 points, indicators one-fourth as serious received five points, and those indicators one-tenth as serious were given two points. Under such methodology, to be considered a physically blighted parcel, a parcel must accumulate 20 points and contain at least one blight indicator which is valued at five or more points. [PR Section 3.4.2.1]

This unvalidated approach of applying numeric values is inherently arbitrary. For example, since values jump from 10 to 20 points, what is the basis for assigning a blight indicator 20 points rather than 17? In addition, the Field Reconnaissance survey team used "example" photos identified as the "Minimum Threshold Standards" Catalog (Catalog), which are **not** photos of the project area, to conduct a visual evaluation (Exhibit 1).

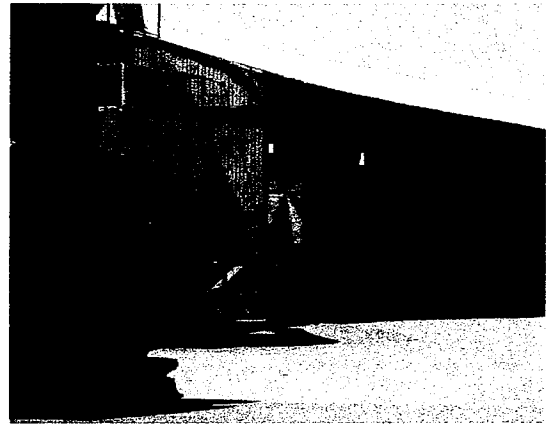
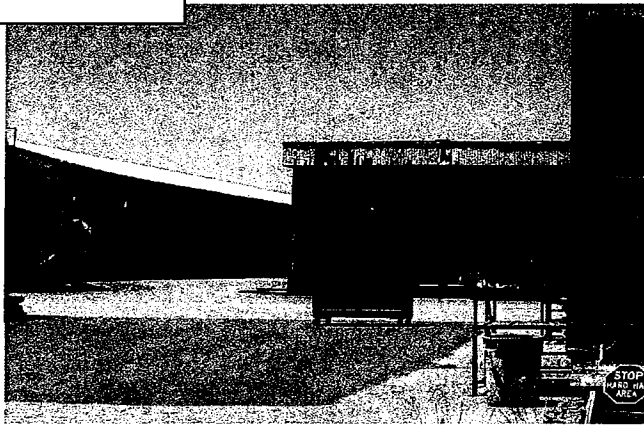
The "example" photos contained in the Catalog create such broad definitions of the blight indicators as to make the methodology flawed. Utilizing the Catalog, a building with peeling paint, overgrown ivy on the building wall, and a roof with shingles missing at the eaves, according to the Agency's methodology, would collectively substantiate that the building be considered physically blighted, i.e. either unsafe or unhealthy for persons to live or work and/or whose conditions prevent or substantially hinder the viable use or capacity of the building. This clearly is not so. In *Friends of Mammoth, et al. v. Town of Mammoth Lakes Redevelopment Agency* (2000) 82 Cal. App. 4th 511, the Court of Appeals found that,

" . . . The building condition survey that the town used to support that finding applied definitions of 'dilapidation' and 'deterioration' that were too broad and cited instances of substandard design and a need for seismic upgrading that were irrelevant to a finding that buildings were unsafe or unhealthy."

A review of the Agency identified blight indicators reflect multiple combinations which can equate to 20 points without proving a building is unsafe or unhealthy for persons to live or work, or that these conditions prevent or substantially hinder the viable use or capacity of buildings or lots as required under Health & Safety Code § 33031 subd. (a) (1) and (2) [See Photos 1 to 3]. Agency 10 point indicators were: addition not permitted, boarded unoccupied, fire hazards, foundation (cracks seen), functional obsolescence, garage conversion not permitted, incompatible land uses, poor site ingress/egress, inadequate or impaired access to building exits, irregular parcel, roofs, and apparent unreinforced masonry. Agency five point blight indicators were: apparent electrical hazards, patio cover not permitted, secondary structures, boarded and occupied structures, faulty construction materials, deteriorated fixtures/mechanical equipment/HVAC, Inadequate loading/docking facilities, potential infestation of rodents or insects, obstruction of public right-of-way, overgrown/hazardous vegetation, paint-related issues, poor construction quality/corrugated steel/building type, deteriorated/absent private infrastructure, poor site layout, deteriorated/absent public infrastructure (street, curb, parking issues, gutter, sidewalk, utility), substandard design (structure), unsafe missing stairways or walkways, and weather protection, holes in plaster/stucco/wood. Agency two point indicators were: appurtenant structure, fence/block wall/other outdoor wall

structures (defective), fenestration (windows, screens, doors), and inoperable vehicles. Five Agency indicators were not given any points and were excluded from the report, they include: adult-only businesses, bars on doors/windows, graffiti, presence of payday lenders or pawn shops, and security fencing.

Photo 1



Parcel 8 – Custom Mills, Inc., 151 Long Lane

According to the Agency, Parcel 8 is physically blighted with 22 blight points:

appurtenant deteriorated structure, faulty construction materials, paint-related issues, poor construction quality/corrugated steel/building type, and weather protection, holes in plaster/stucco/wood.

Photo 2

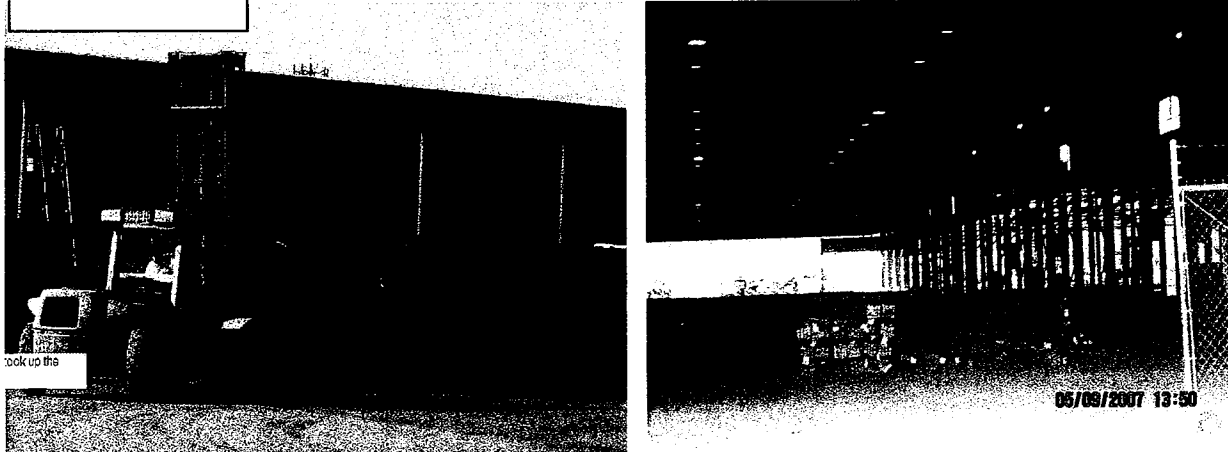


Parcel 32 – Doan's Formica Designs, 13332 Amar Road

According to the Agency, Parcel 32 is physically blighted with 27 blight points.

addition not permitted (includes patio covers, tool sheds, lean-tos, open porches, stoops and other types of "add-on" intended as "pass through areas"), appurtenant deteriorated structure, fire hazards, inadequate loading/docking facilities, and deteriorated/absent private infrastructure.

Photo 3



Parcel 94 – Cascade Steel Rolling Mills Inc., 3240 N. Durfee Ave/3301 Gilman Rd

According to the Agency, Parcel 94 is physically blighted with 20 blight points.

potential of infestation of rodents or insects, overgrown/hazardous vegetation, poor construction quality/corrugated steel/building type, and deteriorated/absent private infrastructure.

Also, the methodology used appears to have focused on a visual evaluation of the properties only, without additional investigation. During an Agency conducted tour for County staff on March 15, 2007, the Agency emphasized the fact that this was private property. In *Graber v. City of Upland* (2002) 99 Cal.App.4th 424, stated (*Friends of Mammoth, supra*, 82 Cal.App.4th 511,539, fn. 8),

The practice of using exterior structural surveys has been criticized because a superficial survey may not result "in substantial evidence supporting the statutorily required elements of a blighted area."

Chosen with the intent to show long-term neglect, the methodology contains a mixture of property and building code enforcement violations that can be reversed or alleviated through routine enforcement. While all code enforcement issues are taken seriously, not all code enforcement issues are serious building code violations which can make a building unsafe or unhealthy, as dictated under the Health & Safety Code § 33031 subd. (a)(1). A review of the Agency's "Minimum Threshold Standards" Catalog used to identify the code enforcement blight indicators in the Project Area shows these do not automatically rise to the level of unsafe or unhealthy conditions. Nor does the Preliminary Report (PR) indicate that any code enforcement investigation was initiated so that an inspector could verify that code violations rose to the level of unsafe or unhealthy. Some examples of property and fire code enforcement issues included: lots with overgrown vegetation or trash and debris; building exits blocked by vehicles, trash bins or items being stored on the other side of the exit door; and public right-of-way (streets, sidewalks, or alleys) blocked with cars, debris or barricades. Some of the building code violations included were: buildings with cracked/broken windows,

torn/missing screens; holes in exterior walls (plaster, stucco or wood); non-permitted additions; apparent electrical hazards; and needed roof repairs.

The Agency states that, "Such core terms as 'prevalent,' 'substantial,' 'necessary for effective redevelopment,' or 'significant' are not defined. Therefore, it becomes incumbent upon the City Council to make its own determination as to how the 'facts on the ground' do, or do not, fit definitions of these terms." The Agency continues, "Therefore, it follows that a 'condition which causes blight' need not, by itself, be found to be 'blight,' but rather may be one of many conditions which, when added together, cause blight as defined in the CCRL. For instance, chipped or peeling paint, per se, is not 'blight' and a structure whose only deleterious condition is chipped or peeling paint would not be considered 'blighted.' However, chipped or peeling paint may be found in combination with a number of other, 'conditions which cause blight' each of which, alone, might not be 'blight.'"

The County does not agree that a number of conditions, each of which alone would not be considered "blight" can make a building unsafe or unhealthy for persons to live or work. The Legislature stated in enacting SB 1206 that, "The legislative purpose of these statutory amendments is to focus public officials' attention and their extraordinary redevelopment powers on properties with physical and economic conditions that are so significantly degraded that they seriously harm the prospects for physical and economic development without the use of redevelopment." In *County of Riverside v. City of Murrieta*, 65 Cal.App.4th 616, the Court said,

*"True blight is expressed by the kind of dire inner-city slum conditions described in the Bunker Hill case: unacceptable living conditions of 82 percent; unacceptable building conditions of 76 percent; crime rate of double *628 the city's average; arrest rate of eight times the city's average; fire rate of nine times the city's average; and the cost of city services more than seven times the cost of tax revenues." (In re Redevelopment Plan for Bunker Hill (1964) 61 Cal.2d 21, [37 Cal.Rptr. 74, 389 P.2d 538])*

As this quotation reflects, the crucial policy concern justifying the establishment of redevelopment powers was the impact of blight on the circumstances of the *human residents* of blighted areas. The City of Industry is *entirely devoted to business uses*, zoned 92% industrial, 8% commercial, with a total citywide population, as of the 2000 census, of 777 persons. The project area contains no residential units. These facts alone demand that any attempt to impose redevelopment upon industrial/commercial uses be held to a very high standard.

PHYSICAL

The physical conditions that cause blight are described in Health & Safety Code § 33031 (a):

(1) Buildings in which it is unsafe or unhealthy for persons to live or work. These conditions may be caused by serious building code violations, serious dilapidation and deterioration caused by long-term neglect,

construction that is vulnerable to serious damage from seismic or geologic hazards, and faulty or inadequate water or sewer utilities.

(2) Conditions that prevent or substantially hinder the viable use or capacity of buildings or lots. These conditions may be caused by buildings of substandard, defective, or obsolete design, or construction given the present general plan, zoning, or other development standards.

(3) Adjacent or nearby incompatible land uses that prevent the development of those parcels or other portions of the project area.

(4) The existence of subdivided lots that are in multiple ownership and whose physical development has been impaired by their irregular shapes and inadequate sizes, given present general plan and zoning standards and present market conditions.

Irregular parcels, in and by themselves do not constitute blight. Health & Safety Code § 33031, subd. (a)(4), states that subdivided lots must also have multiple ownership and show that the physical development was impaired by their irregular shapes and inadequate sizes, given present general plan and zoning standards and present market conditions. Under Section 5.1.4 of the PR, the Agency indicates that all subdivided parcels with irregular size or inadequate size which are adjacent to each other are in single ownership and therefore do not qualify as blighted, yet the indicator was included in the tool and as a result one of the 100 parcels included in the project area reached 20 or more points and was listed as physically blighted.

In describing buildings in which it is unsafe or unhealthy for persons to live or work, the Agency states, "Such buildings suffer severe physical deterioration which is dangerous to inhabitants; peeling paint is often lead-based and dangerous to the health of the occupants; hazardous electrical wiring is a serious fire hazard; leaking roofs, cracks around windows and doors, cracked plaster and loose joint all potentially lead to bodily injury, illness, or in extreme cases, death." The Agency makes this generic statement without including any facts in the PR to support its claims. Nor do the examples included in the Catalog that the Agency used to rate the project area provide proof that these are indications of serious dilapidation and deterioration of the building. In *County of Riverside, supra*, 65 Cal.App.4th 616, the Court warns against speaking in the statutory language used to define blight, while offering little concrete evidence or conditions that are not supported by tangible proof and are not discussed in a meaningful way.

The Agency has also identified blight indicators of substandard, defective, or obsolete design and/or construction given present development standards, and states, "While the design of these structures may have been appropriate at one time, now their design is obsolete given present zoning standards and building codes. Functional obsolescence is a major contributor in determining if a structure is viable or not. . . . outdated industrial or commercial facilities may function at a lower level of viability than similar structures whose design more closely fits the current needs of today's commercial and industrial establishments." However, nowhere in the report is there substantial evidence showing that these alleged conditions prevent or substantially hinder the viable use or capacity of

buildings or lots. In fact, the great majority of parcels included in the project area are currently occupied and in active and productive use. Also, the Agency identified eight parcels which they felt exhibited poor site layout. According to the Agency, "The improper placement of structures on a parcel goes directly to substandard site design and hinder's (*sic*) the capacity of the site. . . . Additional structures are built where and as immediately convenient with no thought to the ultimate development potential for the site. At the end of the day, the total development on the site is dense enough to preclude additional development, but not so dense as to fully utilize the full capacity of the site." In *Sweetwater Valley Civic Association v. City of National City*, 18 Cal.3d 270, 555 P.2d 1099, the court stated,

"(3). . . 'Blight' for area redevelopment purposes requires that the area suffer 'either social or economic liabilities, or both' . . . it is not sufficient merely to show that the area is not being put to its optimum use, or that the land is more valuable for other uses. . ."

It was also stated in *Friends of Mammoth, supra*, (2000) 82 Cal. App. 4th 511,

"(11) . . . determinations of blight are to be made on the basis of an area's existing use, not its potential use. Redevelopment never can be used just because the public agency considers that it can make a better use or planning of an area than its present use or plan. Thus, factors limiting a building or lot which is currently enjoying an economically viable use or capacity from achieving potentially greater economic returns are outside the scope of Health & Safety Code, § 33031, subd. (a)(2)."

The Agency indicates, ". . . a total of 25 parcels (25 percent of all parcels) were saddled with deteriorated fences or block walls. The security implications of this condition are obvious, not so obvious would be the potential for harm to persons trying to squeeze through an inappropriate opening." In *Beach-Courschesne v. City of Diamond Bar* (2000) 80 Cal.App.4th 388[95 Cal.Rptr.2d 265], the court stated,

"However, section 33031, subdivision (a)(1), does not refer to potential health and safety concerns but to existing unsafe and healthy conditions."

Of the 100 parcels included in the project area, only 25 parcels show points greater than 20 and are "physically blighted" even under the Agency's definition. Utilizing the Office of the Assessor's maps, these 25 parcels equate to approximately 66.95 of the 291 acres or 23 percent of the proposed project area, which does not appear to substantiate a finding of prevalent and substantial physical blight. Under the County analysis of the blight indicators, such as property/fire code enforcement, building "fenestration" (cracked windows, missing screens, doors out of square), and irregular parcels, only 15 of the parcels will have points greater than 20 to meet the definition of physically blighted. These 15 parcels account for approximately 26.32 acres or 9.04 percent of the project area. This certainly does not show prevalent and substantial physical blight.

The Agency also commissioned a Noise Study (Study), which was not included as part of the PR, to show that excessive noise in the project area is contributory to unhealthy

living and working conditions and conditions that substantially hinder the viable use even of industrial buildings (PR Section 5.1.5). First, noise is not a condition of blight according to the Health & Safety Code § 33031 subd. (a) or (b), and therefore, should not be included as an indicator. Second, there is no evidence that the noise is excessive. Third, there is no evidence that if there is excessive noise, it contributes to unhealthy working conditions that substantially hinder the viable use of any building. As the project area contains no residential units, industrial and commercial areas are expected to have a higher level of noise. In addition, the Agency states that the Study indicated that "most of the noise generated at [the] sites was due to traffic along adjacent roads and not from the individual facilities themselves." As the majority of the city area, by design, follows the freeways, major roadways, and railroads, and as this Study only looked at 10 sites in and around the project area, one must question the intent and purpose of this Study.

ECONOMIC

Health & Safety Code § 33031 (b) describes the economic conditions that cause blight as follows:

- (1) Depreciated or stagnant property values.*
- (2) Impaired property values, due in significant part, to hazardous wastes on property where the agency may be eligible to use its authority as specified in Article 12.5 (commencing with Section 33459).*
- (3) Abnormally high business vacancies, abnormally low lease rates or an abnormally high number of abandoned buildings.*
- (4) A serious lack of necessary commercial facilities that are normally found in neighborhoods, including grocery stores, drug stores, and banks and other lending institutions.*
- (5) Serious residential overcrowding that has resulted in significant public health or safety problems. As used in this paragraph, "overcrowding" means exceeding the standard referenced in Article 5 (commencing with Section 32) of Chapter 1 of Title 25 of the California Code of Regulations.*
- (6) An excess of bars, liquor stores, or adult-oriented businesses that has resulted in significant public health, safety, or welfare problems.*
- (7) A high crime rate that constitutes a serious threat to the public safety and welfare.*

The project area consists of 100 parcels, 291 acres, the majority of which are zoned as industrial with a small portion zoned commercial under the General Plan. As residential housing is nonexistent in the project area, the economic blight conditions regarding lack of necessary commercial facilities normally found in neighborhoods and residential overcrowding were not addressed in the PR. As the project area has little resale history, according to the Agency the lack of resale transactions activity precluded any assessment to determine if the project area was impacted by depreciated or stagnant property values. No evidence is given of abnormally high business vacancies,

abnormally low lease rates or abnormally high number of abandoned buildings. In fact, the great majority of the property is occupied with only 1.3 percent of the project area vacant (PR Section 4.0, Table 2), and little to no turnover in ownership of the property (Exhibit 2). It is the County's opinion this demonstrates the absence of Economic Blight in the project area as defined in Health & Safety Code § 33031 (b).

The Agency asserts that the number of calls to the Fire Department are high and exhibit conditions of excess public safety risk and fiscal burden to the community (PR Section 5.2.1.1); however, no association is provided between these calls and a high crime rate to constitute a serious threat to the public safety and welfare, as required under Health & Safety Code, § 33031, subd. (b)(7). The Agency reports that utilizing data from the latest available reporting period from the County Fire Department, the project area requires 2.81 times the level of service (93 benchmark:262 actual) otherwise required for similar forms of land use in other parts of the community. The data used for the benchmark reference and the annual number of calls generated within the project area appear to be for the same time period, therefore, we are assessing a snapshot of data -- a one year time period which is too short to be a reliable indicator. We do not know if there were unforeseen or uncontrolled events that may have affected the data such as the 62 false alarms, four unintentional transmissions of alarms, and 31 dispatched and canceled calls or that the calls were even crime related. Also, there is no explanation as to how the categories of actual calls are allocated to each land use classification. For example, there are zero acres of streets right-of-way included in the project area, however there are 43 "Vehicle accidents with injury" and four "Passenger vehicle fires" calls in the actual calls in the project area which seems to imply street areas (PR Appendix F-3). As the Fire Department services are funded through tax increment, as opposed to calls by land use and acres, there is no corroborating evidence for the Agency's system of allocating calls or a validation of the benchmark. In fact, the placement of the parcels into a redevelopment project would decrease the funding available for fire services to the project area.

The Agency's statement that the project area requires 1.5 times the level of service (136 benchmark:204 actual) from the County Sheriff's Department than otherwise required for similar forms of land use in other parts of the community, is questionable. The information obtained from Sheriff's Reporting District 1412 includes areas that are outside of the project area and it also excluded areas within the project area. The data is a "snapshot" without any information as to unforeseen or uncontrolled events that may have affected the data. In fact, no detail on the types of calls received is included, therefore we are unable to verify whether false alarms or dispatched and canceled, as seen in the Fire Department calls, may have skewed the information. As the Sheriff's Department charges the City based on time spent, as opposed to land use or acres, the benchmark used has not been validated. Ultimately, there is no evidence that the number of calls, even if higher than other areas, equates to a high crime rate that constitutes a serious threat to the public safety and welfare, as required under Health & Safety Code § 33031 subd. (b)(7).

The Agency's Appendix F-7 shows that there are five adult-only entertainment businesses located within a three minute drive from "Miss Kitty's Topless Entertainment" (Miss Kitty's) which is in the project area. Two of the five are located within the adjacent

Civic-Recreational-Industrial Redevelopment Project No. 1. There is no information contained in the PR as to when the business licenses were approved or when these facilities were opened. The Agency states that these adult-only businesses generate 21.6 annual response calls per acre of development and Miss Kitty's generates 36.29 calls per acre, and the corresponding rate of demand is nearly 25 times greater than the 1.48 calls otherwise demanded by commercial development in the surrounding community. However, in this situation the calls per acre method seems more misleading. Of the five facilities, Miss Kitty's had the lowest number of police response calls from May 2004 to May 2005, with nine calls per year being the lowest and 21 calls being the highest. From May 2005 to May 2006, Miss Kitty's was second lowest at nine calls, with eight calls being the lowest and 22 being the highest. However because Ms. Kitty's is the smallest parcel at 0.25 acres, their nine calls per year is skewed to represent 36.29 calls per acre. The Agency has not clearly shown that the number of adult-oriented businesses is in excess, not planned, and that the number of businesses has resulted in significant public health, safety, or welfare problems as required under Health & Safety Code § 33031 subd. (b)(6).

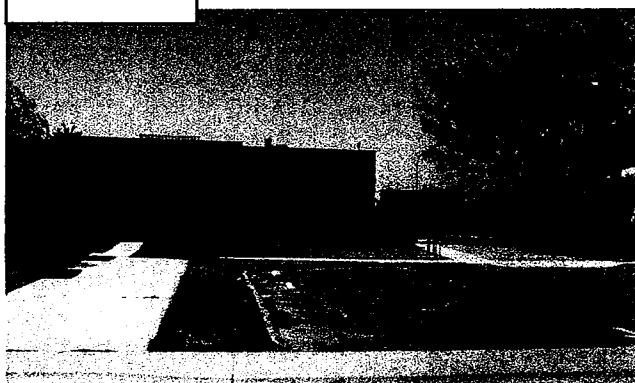
In PR Section 5.2.2, the Agency states that external obsolescence, which means the diminished utility of a structure on a parcel due to the negative influences exterior to the subject parcel, and where the conditions are usually incurable on the part of the land owner, landlord, or tenant, describes a devaluation of property values and is a condition of blight. Due to the common practice of notifying property owners within 300 feet of any planning commission action, the Agency deems that external obsolescence would therefore affect adjacent properties up to 300 feet away. Therefore, it is the Agency's contention that the 25 parcels identified through the use of the tool as physically blighted, would cause any adjacent parcel within 300 feet to also be considered physically blighted. In essence, 25 parcels would cause 75 parcels to be blighted. As previously noted, the methodology used in the tool is too broad and therefore, flawed. Also, the PR does not identify which allegedly blighted parcel affects which non-blighted parcels. Basically, the Agency just made a blanket statement and drew a circle around the map.

The text "Appraisal of Real Estate," (Appraisal Institute, Chicago, Illinois, Twelfth Edition), states that factors outside of a property or externalities exert both positive and negative influences on the property's value. Since the Agency does not identify which allegedly blighted parcel affects a non-blighted parcel, one cannot identify the parcels that are affected by the principle of progression which is the appraisal concept that the value of an inferior property is enhanced by its association with better properties of the same type. Thus, it would be equally logical to argue that some of the 75 non-blighted parcels are within 300 feet of other parcels perhaps outside the project area that are better properties and therefore benefit by their proximity. Furthermore, if those 25 parcels are indeed blighted, they would be in the project area and once they are redeveloped, would not cause any negative effect on the 75 other parcels, in fact, their value will be enhanced. This negates any reason there may be to include the non-blighted parcels. In addition, the use of an Appraisal Industry concept to include areas that do not fall under the definition of blight as stated in Health & Safety Code § 33031 subd. (a) and (b), is contrary to Health & Safety Code § 33320.1 subd. (b)(2), which states "... Parcels that are not blighted shall not be included in the project area for the

purpose of obtaining the allocation of taxes from the area pursuant to Section 33670 without other substantial justification for their inclusion." The Agency has not provided substantial justification for the inclusion of these parcels for effective redevelopment.

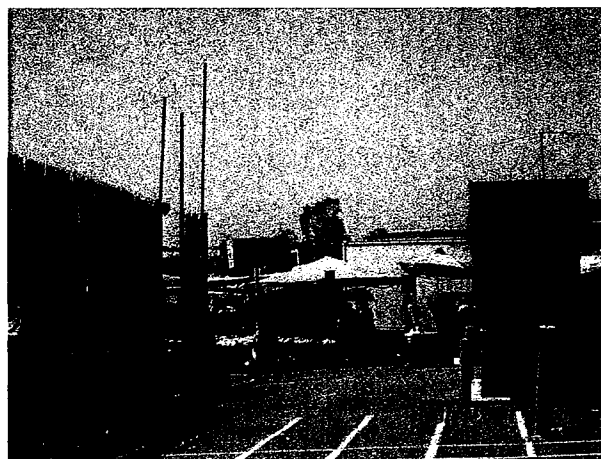
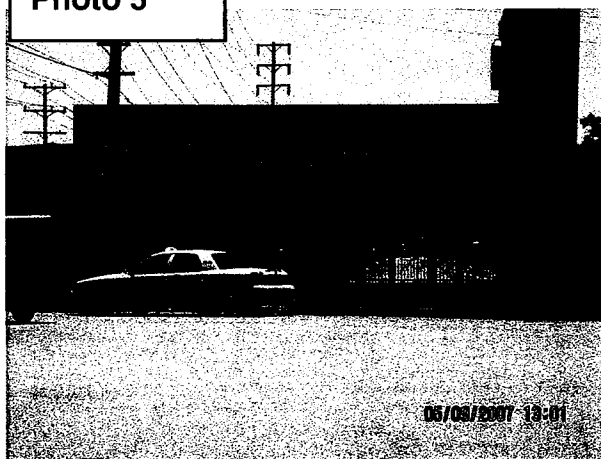
As indicated, there is no substantial justification to include parcels that are "not blighted," and this is further demonstrated by the next two examples. First is Torch Middle School which occupies approximately 19 acres in the project area. The school is operational and there are plans to build a gymnasium on the school grounds. As there is currently no property tax generated by this public school, the inclusion into the project area would *only* be to capture the tax increment if the property changes over to private ownership (Photo 4). Second is the Vineland Drive-in, which is the only drive-in that is still operating in the Los Angeles area. This Drive-in has opened every evening since 1955 and plays first-run movies. In 1985 the Vineland Swap Meet opened at this location on Saturdays and Sundays and expanded to seven days a week in 1993. According to the Pacific Theatres Website, the success of these two businesses keeps the property active virtually 24-hours per day and has pushed any possible development scenarios to the distant future (Photo 5).

Photo 4



Torch Middle School

Photo 5



Vineland Drive-In and Swap Meet

The Agency states that the Hazardous Waste Study, which was not included in the PR but rather incorporated by reference, was completed using an environmental database search, an online regulatory agency file review, a historical review (including historical aerial photographs, topographic maps, and historical city director searches), a curbside site reconnaissance, and interviews to determine that six parcels have "known soil contamination or known groundwater contamination (onsite)" and 25 parcels where there is a "potential soil contamination or potential for groundwater contamination (offsite source or suspected onsite)." A review of the Agency's Hazardous Waste Study included in the Environmental Impact Report, show that of the six parcels with "known soil contamination or known groundwater contamination (onsite)," four of the parcels reportedly are closed issues. Two appear to be in the mitigation process; one within a Superfund site with an expected completion date of September 2006.

The 25 parcels the Agency states have "potential soil contamination or potential for groundwater contamination" appear to be based on adjacent property issues, most of which are closed, or based on past property uses. The use of the word "potential" illustrates the absence of proof, such as soil or groundwater testing. Also the Agency's statement in the PR appears to be in conflict with the Notice of Availability of the Draft EIR for Project No. 4, dated April 13, 2007, which states under the section titled Hazardous Materials Sites, "There are no known currently designated hazardous material sites within the Project Area on lists enumerated under Government Code Section 65962.5." More importantly, there is no evidence of impaired property values, due in significant part, to hazardous wastes on property where the agency may be eligible to use its authority as specified in Article 12.5, as is required under Health & Safety Code § 33031 subd. (b)(2).

The Agency's contention, in PR Section 5.3, that travel time, street and railroad traffic, is another condition of "blight" does not meet the descriptions contained within Health & Safety Code § 33031 subd. (a) or (b) and should not be considered. "Inadequate public improvements" was deleted as a factor justifying a finding of blight with the adoption of Assembly Bill 1290. Two of the improvement options discussed in the Agency's Traffic Study can be implemented outside of redevelopment through governmental action, they are: synchronized traffic lights and designated roadways for truck traffic.

THE PR DOES NOT COMPLY WITH HEALTH & SAFETY CODE SECTION 33344.5

Under Health & Safety Code § 33344.5 subd. (e) and (f), it states that the contents of the PR report to the affected taxing entities should include:

(e) A description of the specific project or projects then proposed by the agency.

(f) A description of how the project or projects to be pursued by the agency in the project area will improve or alleviate the conditions described in subdivision (b). [Subdivision (b) is a description of the physical and economic conditions existing in the project area.]

There is no specificity on the project(s) provided in the PR report. The Agency list appears generic and does not cost out separately any project or category. In Appendix H of the PR, under Infrastructure Improvements, the Agency lists: street improvements, including construction, widening, reconstruction and resurfacing (all categories of street); storm drain facilities and systems; parking facilities; extension of utilities and/or utilities undergrounding; water systems; sanitary systems; traffic signal controls, signals, and participation in development of and compliance with local and/or regional transportation management strategies/programs; industrial pollution control devices; other miscellaneous infrastructure projects. The Agency's Estimated Non-Housing Projects/Program categories of Infrastructure Improvements, Community Facilities Programs, and Community Development Programs will total \$38,562,288.

CONCLUSION

In conclusion, the Agency has not shown that both physical and economic conditions of blight are so prevalent and so substantial that it causes a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical and economic burden on the community that cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment. [Health & Safety Code §§ 33030, 33031]

Exhibit 1

Agency's Minimum Threshold Standards Catalog for Use during the Field Survey

(These are not photos of the Project Area)

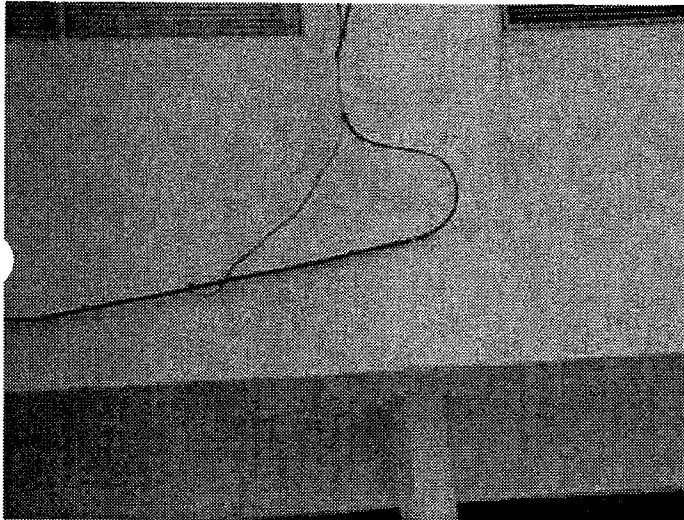
Blight Indicators: "Minimum Threshold Standards" Catalog



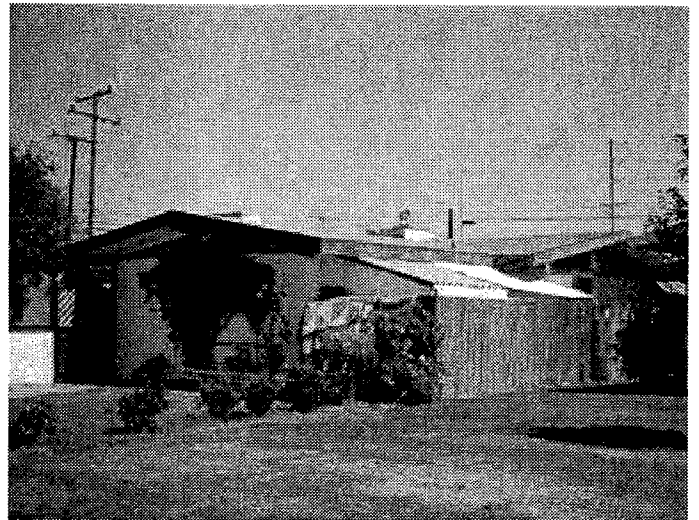
AB – Adult Business (pornography, liquor store, bar) DSC00435.JPG



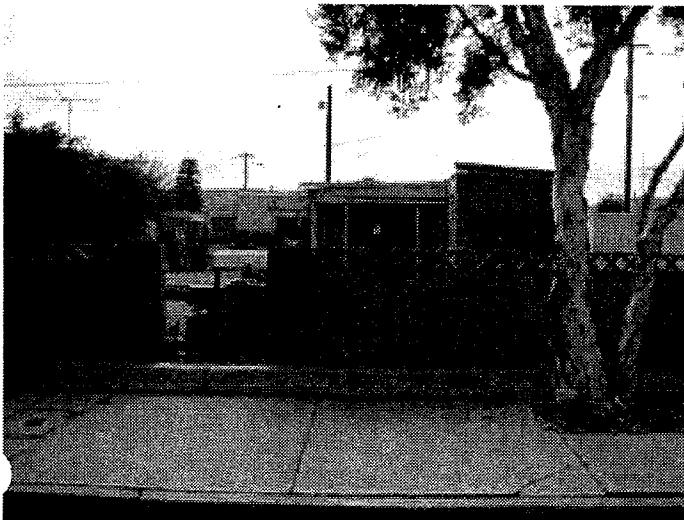
AEH – Apparent Electrical Hazards DSC00037.JPG



AEH – Apparent Electrical Hazards DSC00024.JPG



ANPA – Addition Not Permitted (Room Addition/Alteration, etc.) DSC00510.JPG

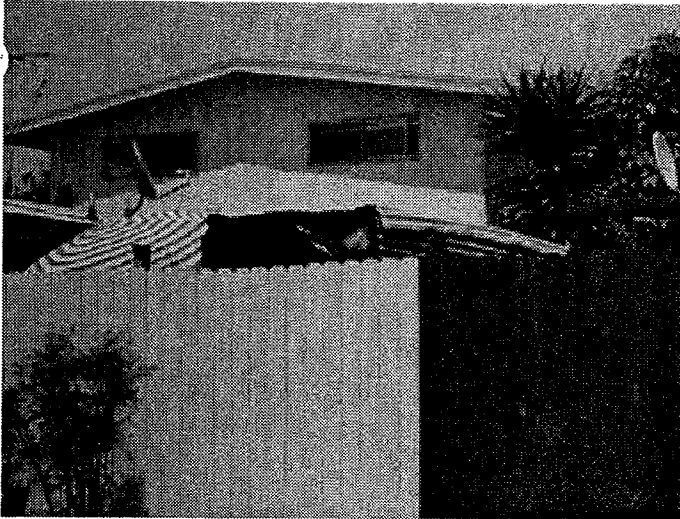


ANPA – Addition Not Permitted (Room Addition/Alteration, etc.) DSC00383.JPG



ANPB – Patio Cover (or other minor construction) Not Permitted DSC00010.JPG

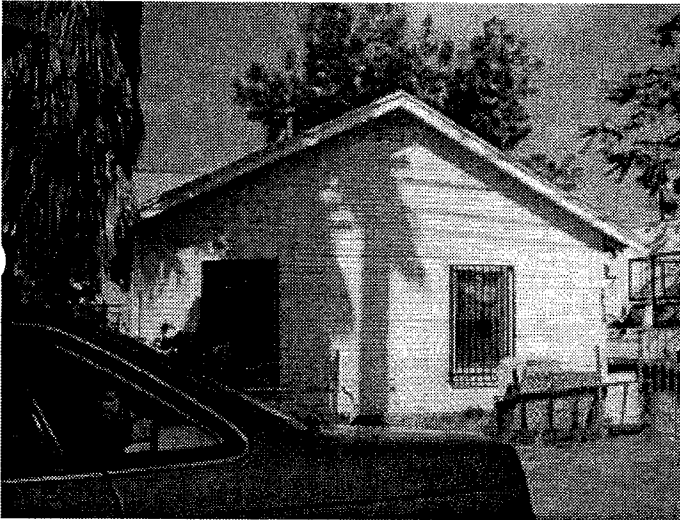
Blight Indicators: "Minimum Threshold Standards" Catalog



AS – Appurtenant Structures DSC00016.JPG



BAR – Bars on Doors/Windows DSC00004.JPG



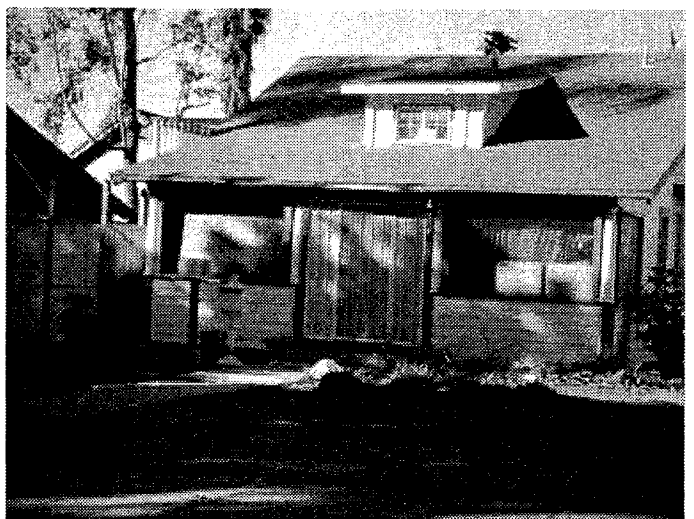
BAR – Bars on Doors/Windows DSC00061.JPG



BAR – Bars on Doors/Windows DSC00593e.JPG

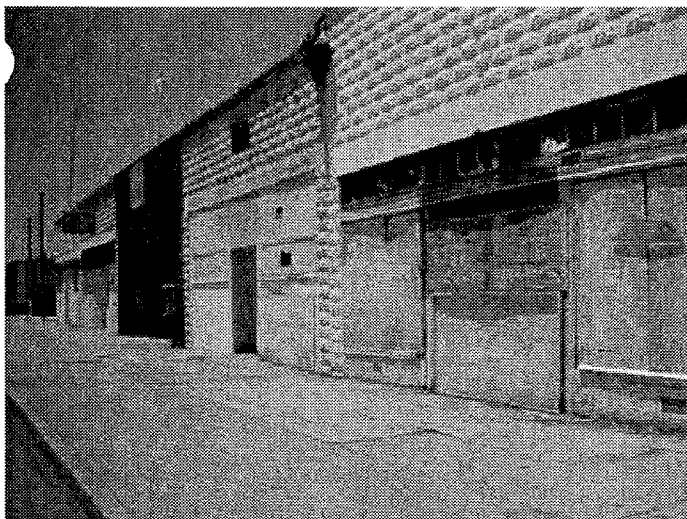


BO – Boarded Occupied DSC00371.JPG

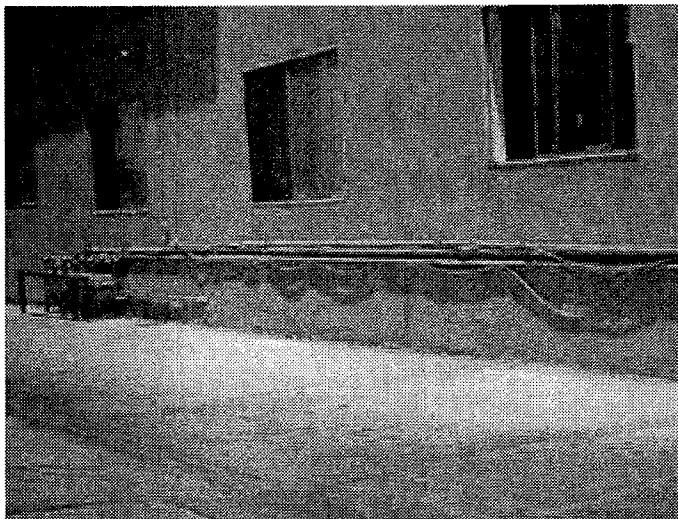


BO – Boarded Occupied DSC00005.JPG

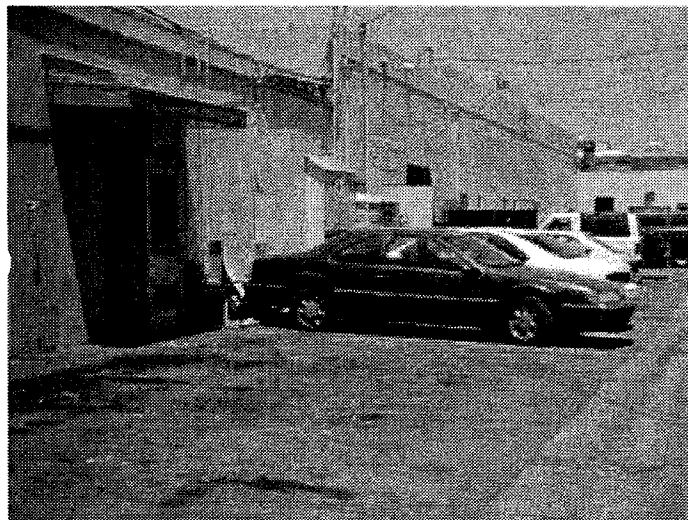
Blight Indicators: "Minimum Threshold Standards" Catalog



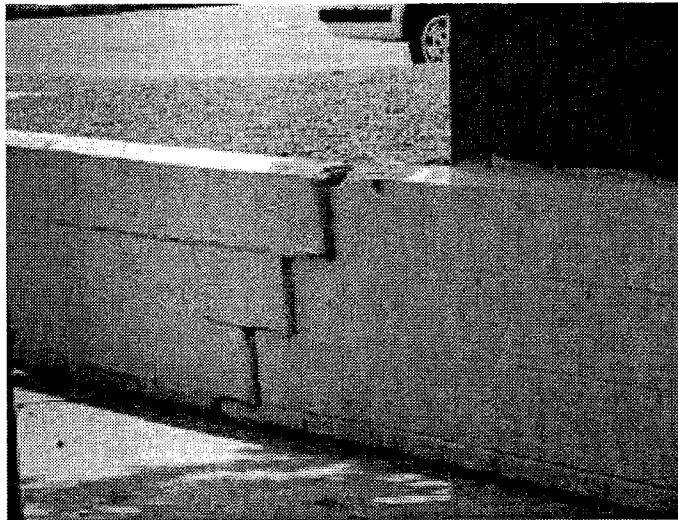
BU – Boarded Unoccupied DSC00004.JPG



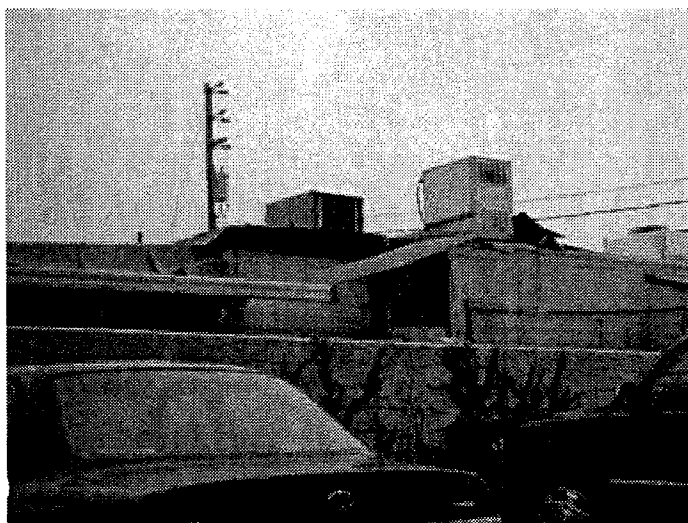
EW – Excessive Exterior Wiring (Not Necessarily Electrical) DSC00071.JPG



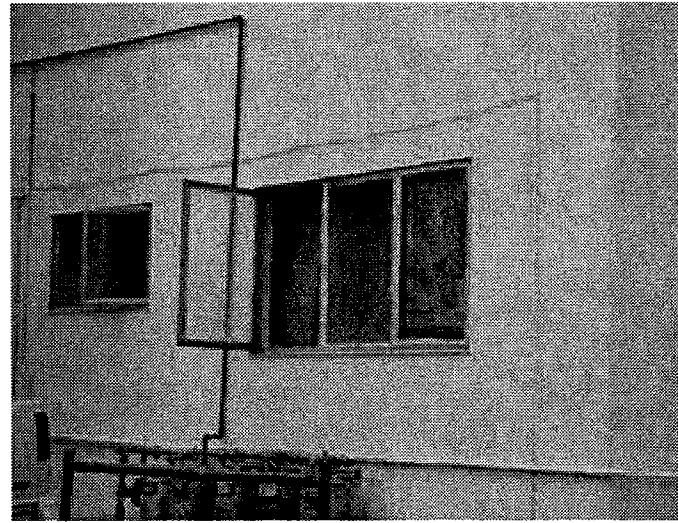
EW – Excessive Exterior Wiring (Not Necessarily Electrical) DSC00485.JPG



FBW – Fence/Block Wall/Other Outdoor Wall Structures DSC00006.JPG



FCM – Faulty Construction Materials Dsc00061_a.JPG

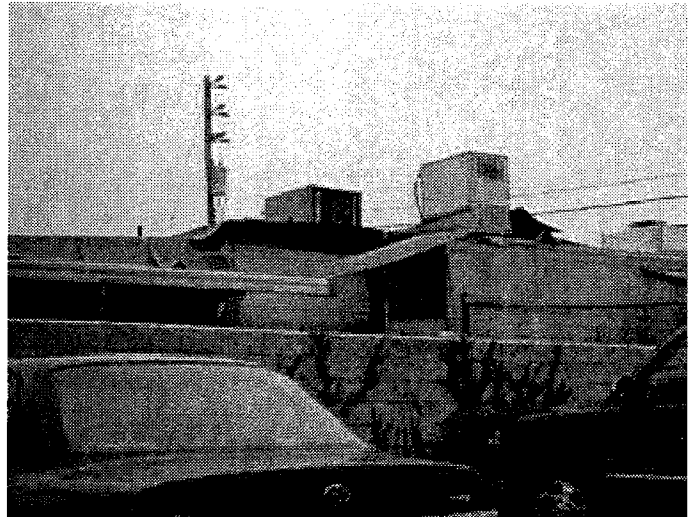


FEN – Fenestration - Windows, Screens, Doors DSC00045.JPG

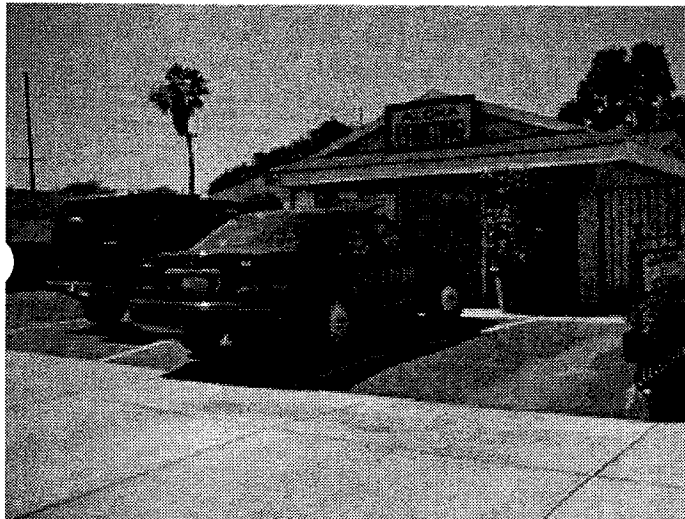
Blight Indicators: "Minimum Threshold Standards" Catalog



FH – Fire Hazards (Structures or Sever Site Issues) DSC00424a.JPG



FME – Deteriorated Fixtures/Mechanical Equipment/HVAC DSC00061.JPG



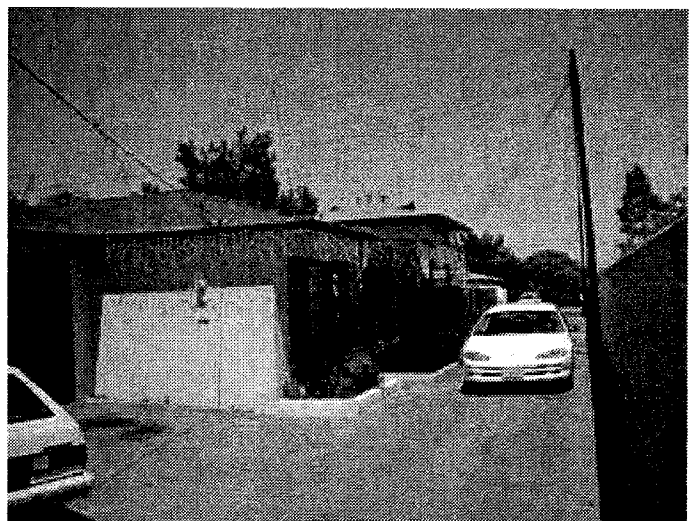
FO – Functional Obsolescence DSC00321.JPG



G – Graffiti DSC00225.JPG

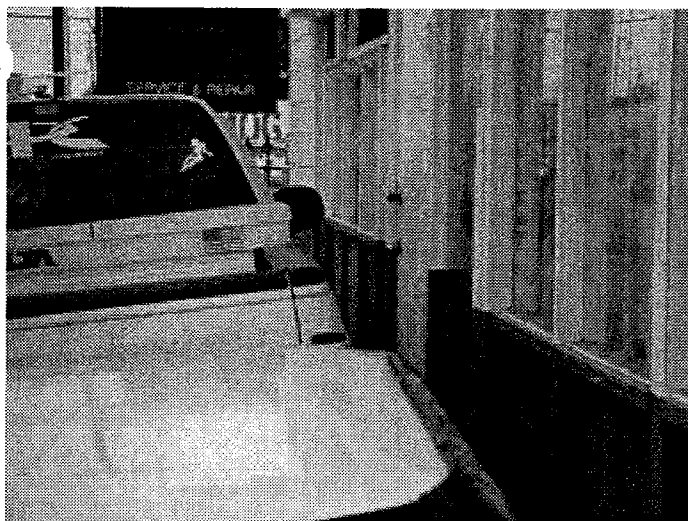


GC – Garage Conversion Not Permitted DSC00062.JPG



IE – Poor Ingress/Egress (Including Emergence Vehicle Access) DSC00302_a.JPG

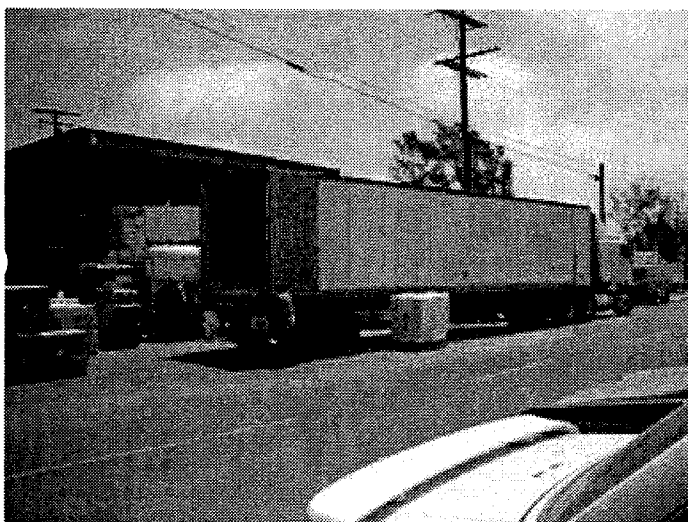
Blight Indicators: "Minimum Threshold Standards" Catalog



IEX – Inadequate or Impaired Access to Building Exits DSC00076.JPG



ILD – Inadequate Loading/Docking Facilities Dsc00069_a.JPG



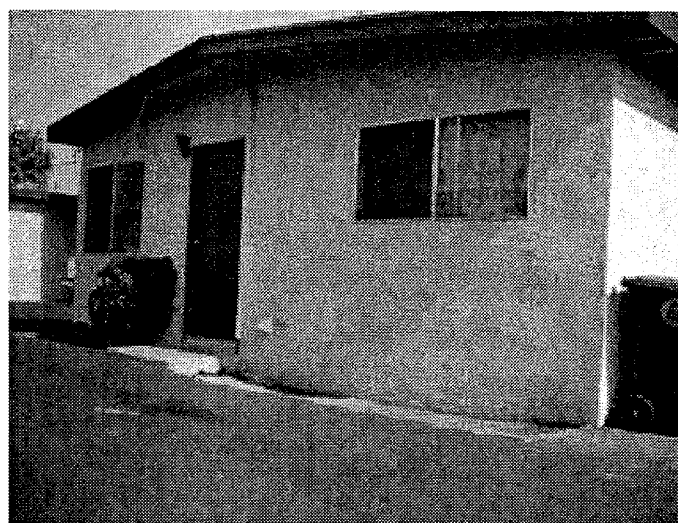
ILD – Inadequate Loading/Docking Facilities DSC00455_02.JPG



IV – Inoperable Vehicles/Inadequate Vehicle Storage DSC00025.JPG

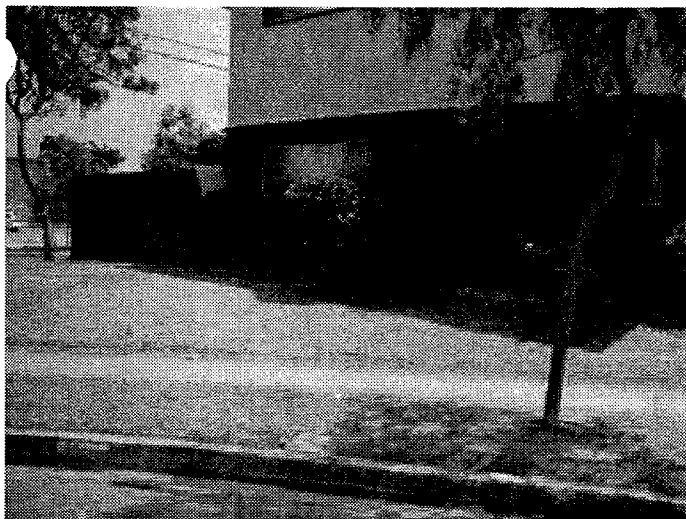


IV – Inoperable Vehicles/Inadequate Vehicle Storage DSC00049.JPG

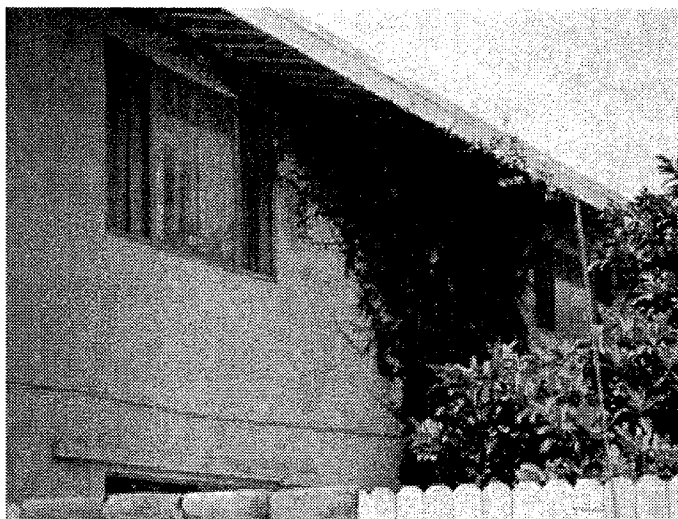


LDQ – Structure Lacks Design Quality as Related to Marshall and Swifts DSC00053.JPG

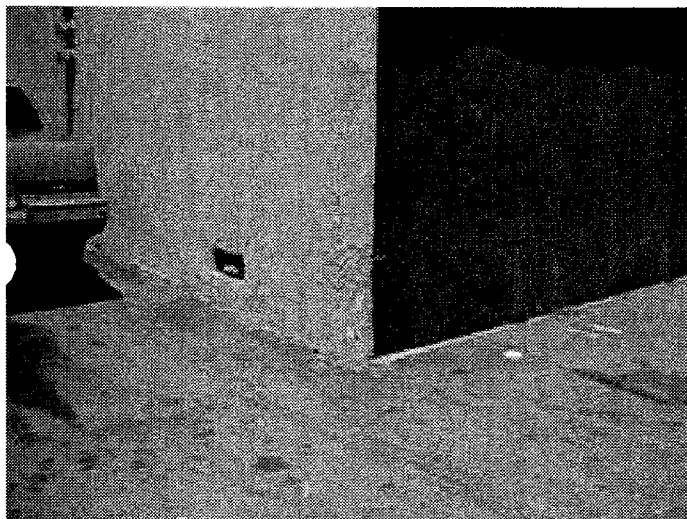
Blight Indicators: "Minimum Threshold Standards" Catalog



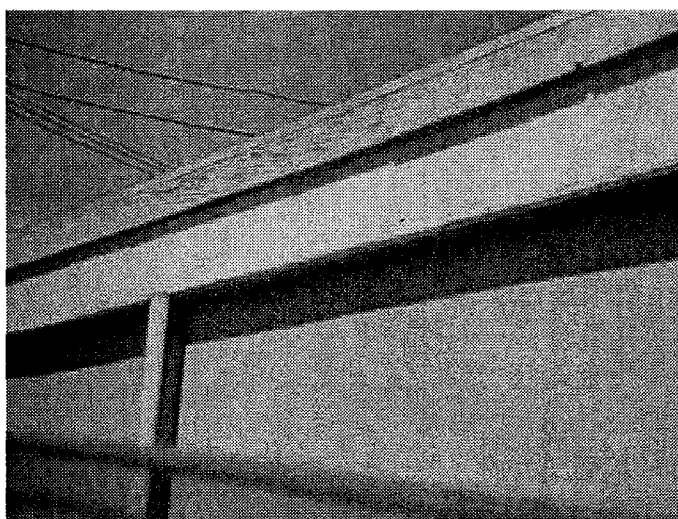
LSA – Lack of Site Amenities/Landscaping DSC00004.JPG



OV – Overgrown/Hazardous Vegetation DSC00015.JPG



P – Paint-Related Issues DSC00007.JPG



P – Paint-Related Issues DSC00126.JPG

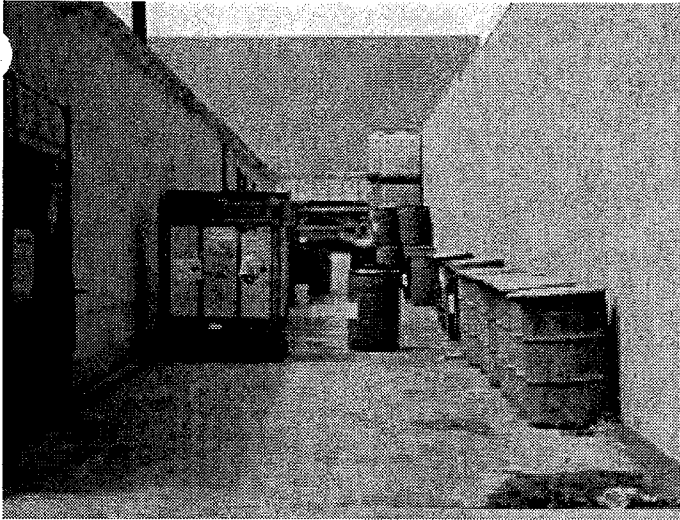


PD – Apparent Drainage Issues DSC00372.JPG



PDL – Presence of Payday Lenders or Pawn Shops DSC00520a.JPG

Blight Indicators: "Minimum Threshold Standards" Catalog



PHS – Potential Hazardous Substances DSC00447.JPG



PQ – Poor Construction Quality/Corrugated Steel/Building Type DSC00534e.JPG



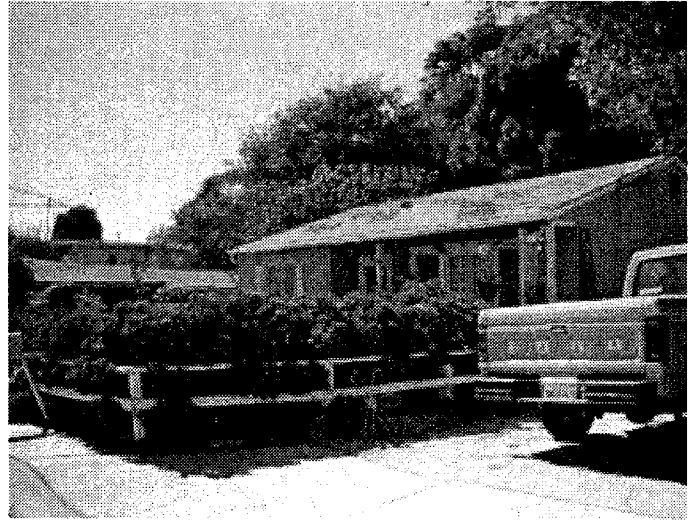
PRI – Deteriorated/Absent Private Infrastructure DSC00050.JPG



PRI – Deteriorated/Absent Private Infrastructure DSC00073.JPG

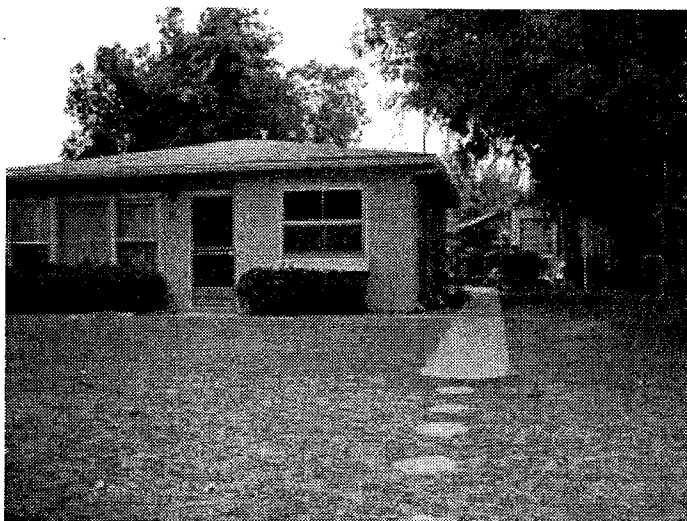


PLS – Poor Site Layout DSC00059.JPG

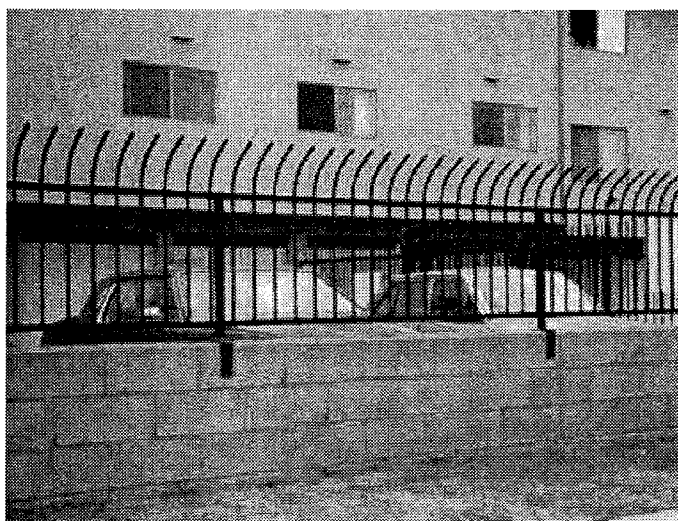


R – Roofs DSC00324.JPG

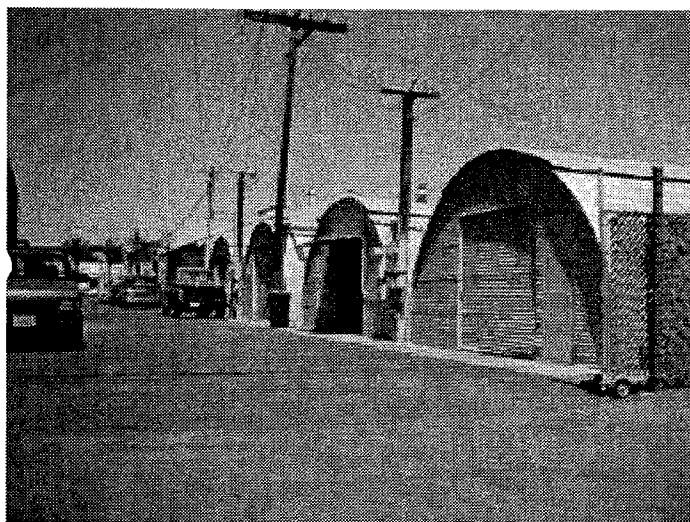
Blight Indicators: "Minimum Threshold Standards" Catalog



R - Roofs DSC00571e.JPG



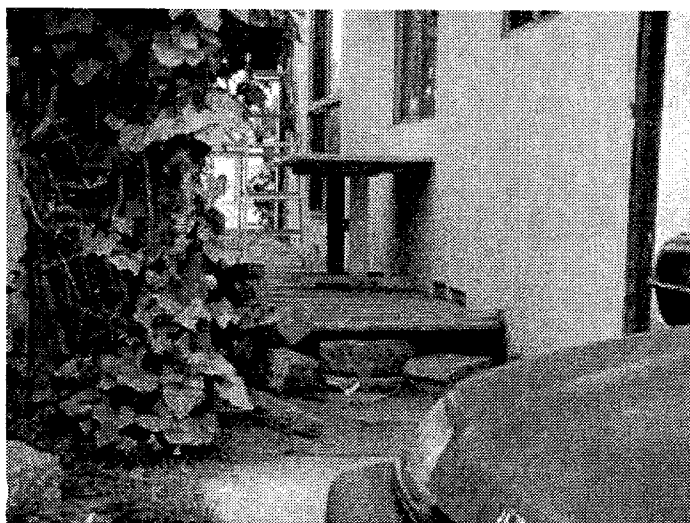
SCF - Security Fencing Dsc00033.JPG



SD - Substandard Design Dsc00252_02.JPG



UST - Unsafe Stairways or Walkways DSC00022.JPG

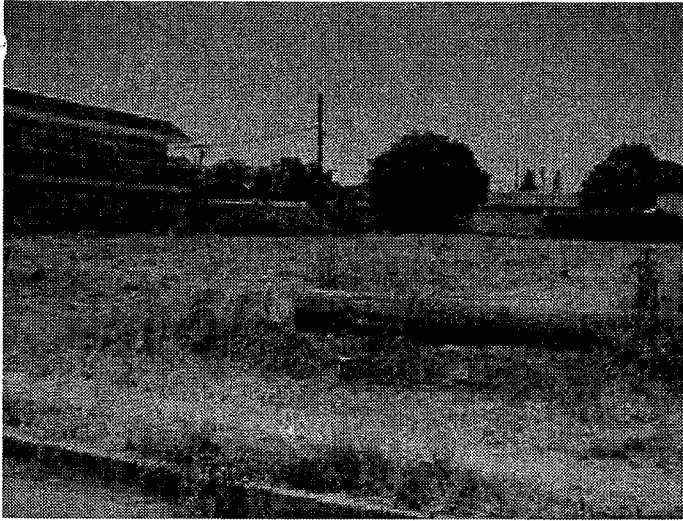


UST - Unsafe Stairways or Walkways DSC00046_a.JPG



VI - Ventilation and Illumination (Lack of Openings) DSC00424b.JPG

Blight Indicators: "Minimum Threshold Standards" Catalog



VL – Vacant Lots DSC00280.JPG

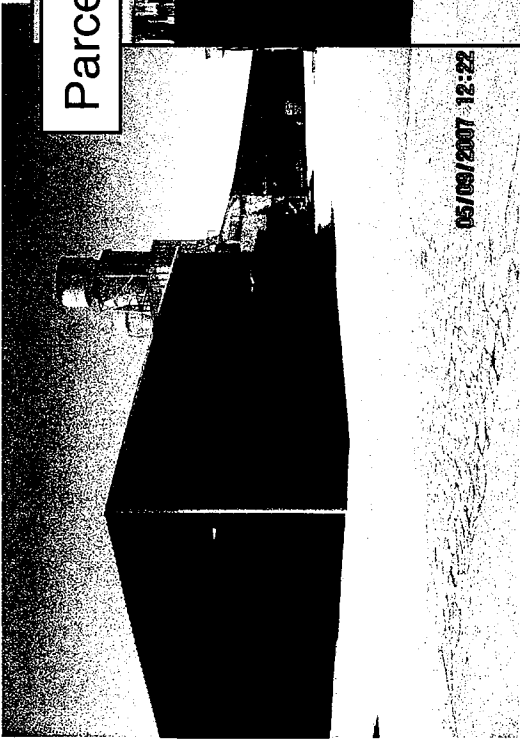


WP – Weather Protection, Holes in Plaster/Stucco/Wood DSC00013.JPG

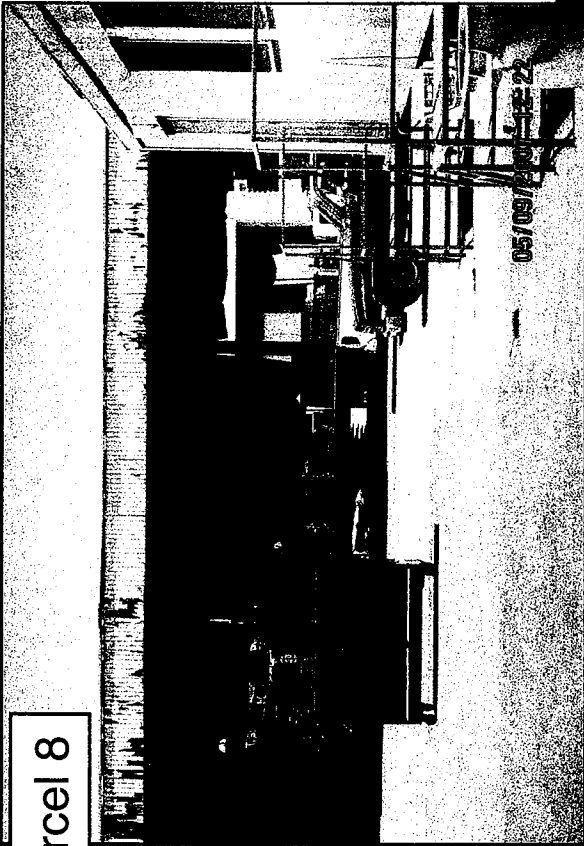
Exhibit 2

County Photographs of the Project Area

Industry Civic-Recreational-Industrial Redevelopment Project 4



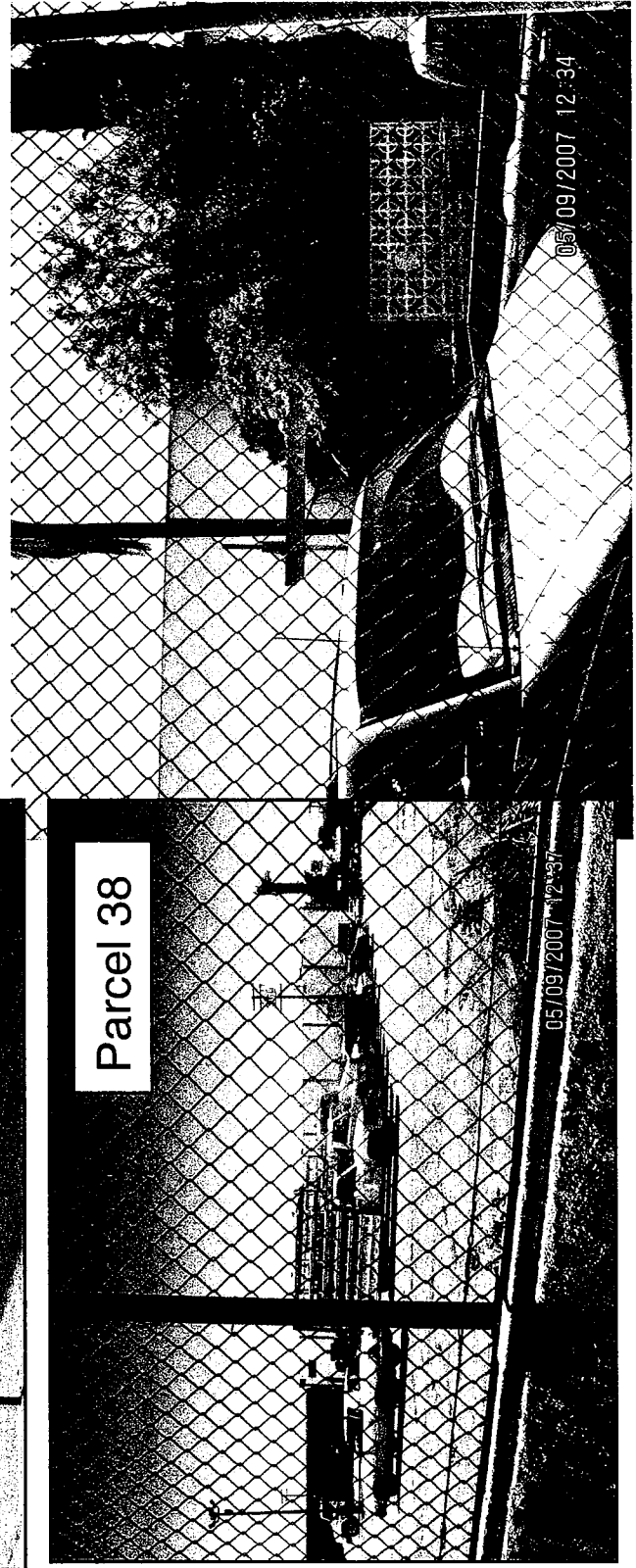
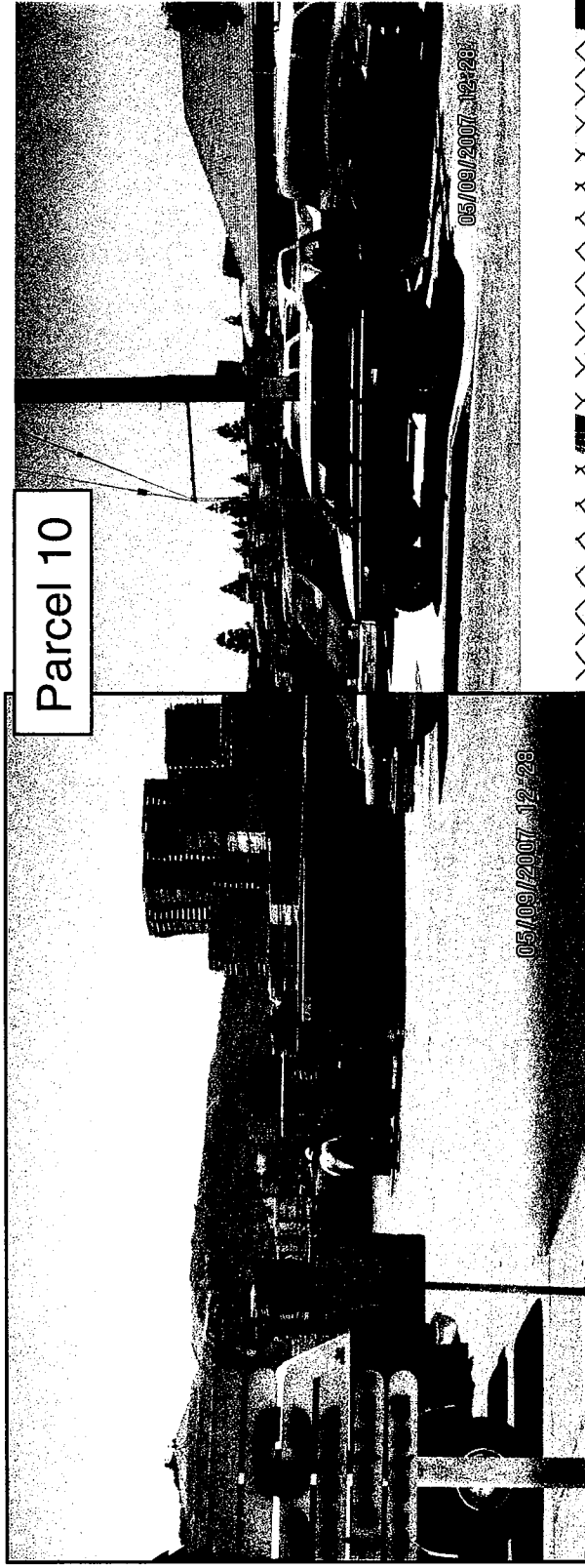
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Parcel 9



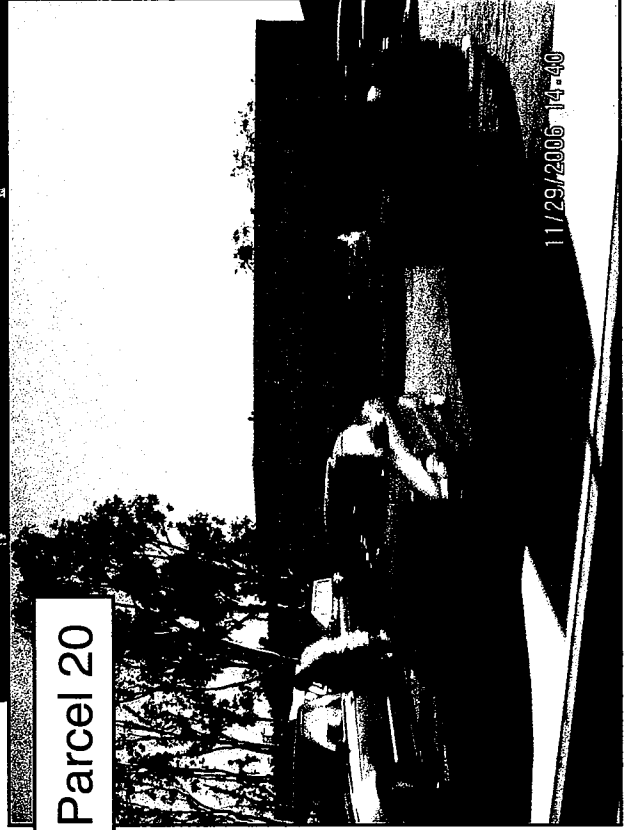
Industry Civic-Recreational-Industrial Redevelopment Project 4



Industry Civic-Recreational-Industrial Redevelopment Project 4



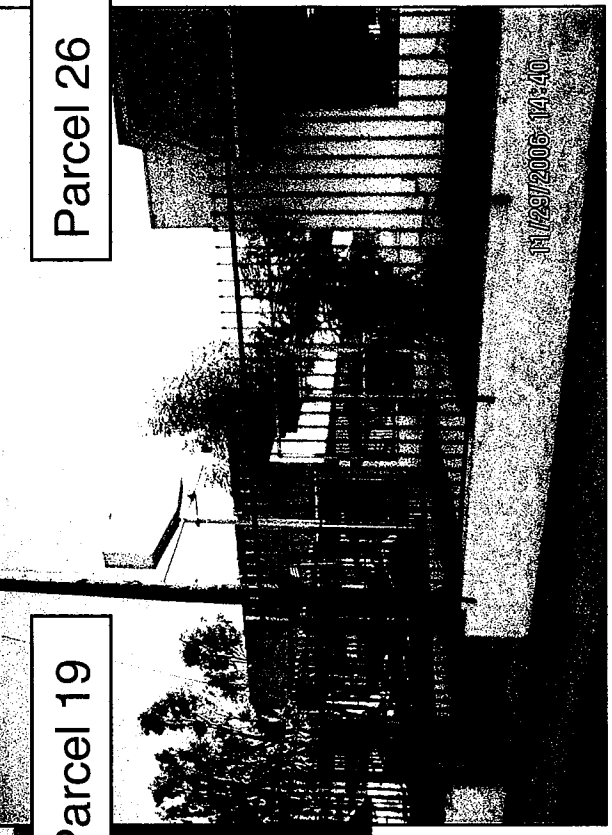
Parcel 26



Parcel 20



Parcel 19

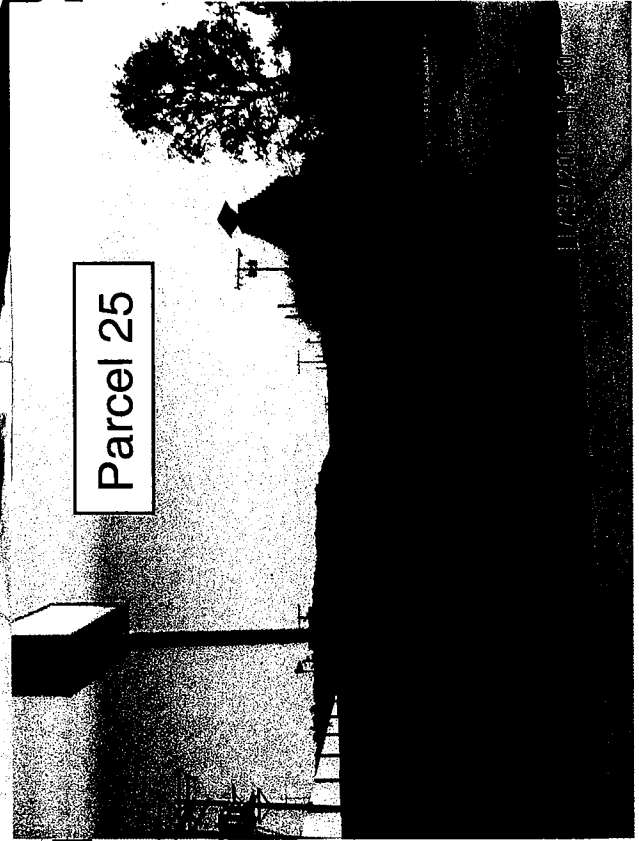


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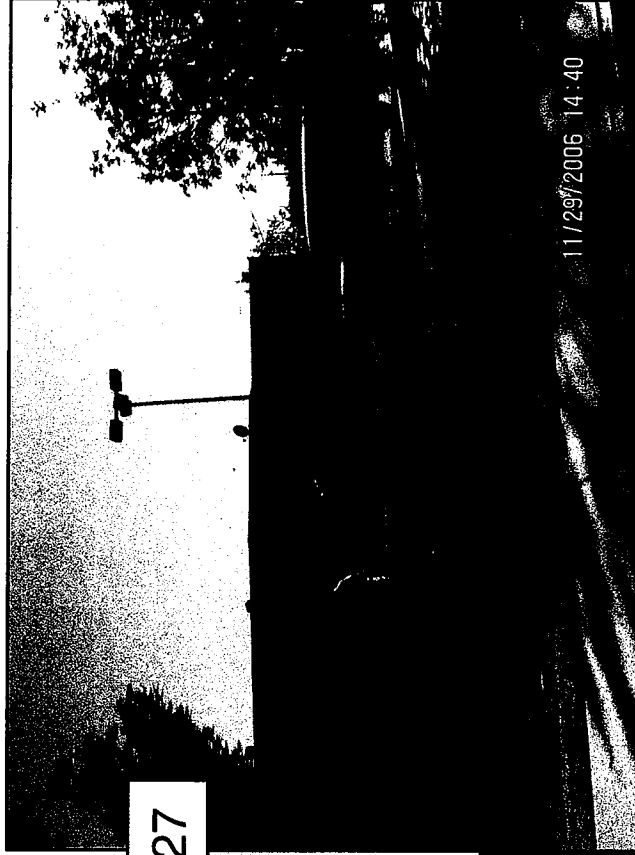
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Industry Civic-Recreational-Industrial Redevelopment Project 4



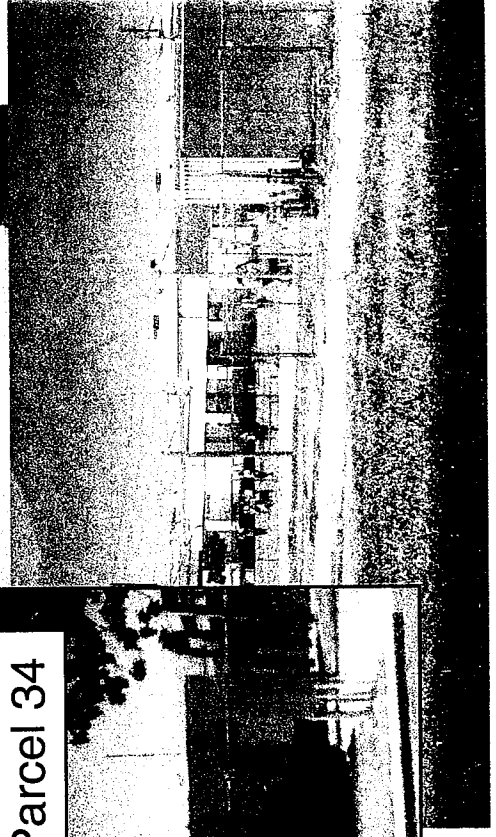
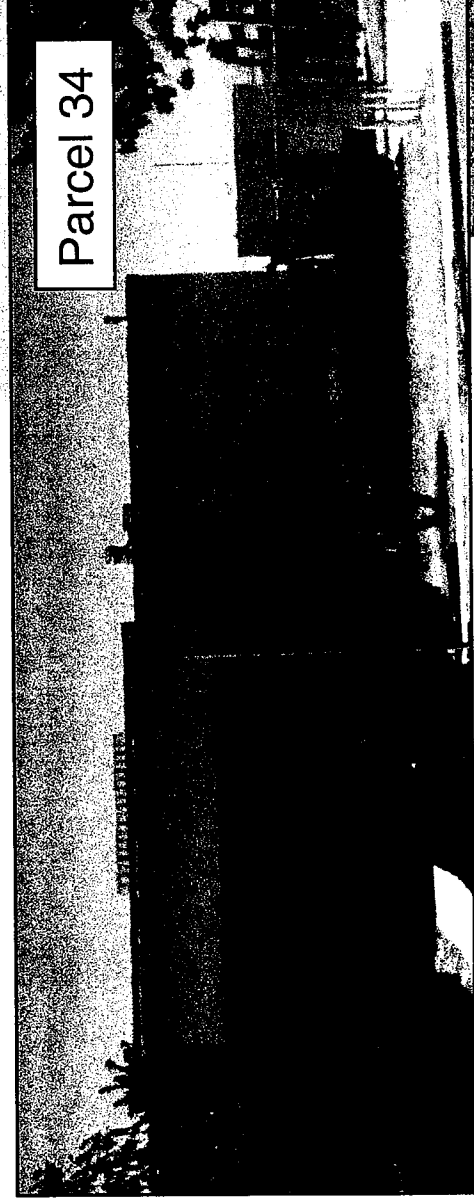
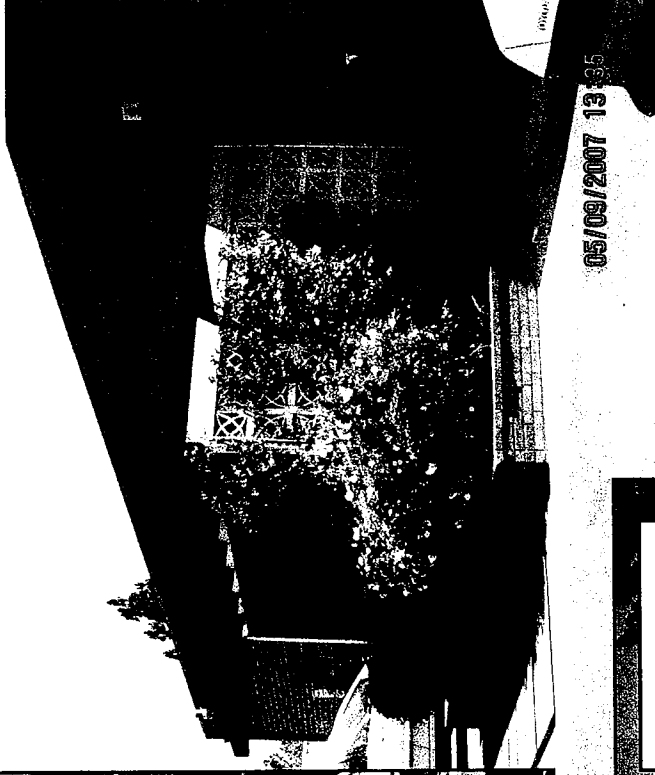
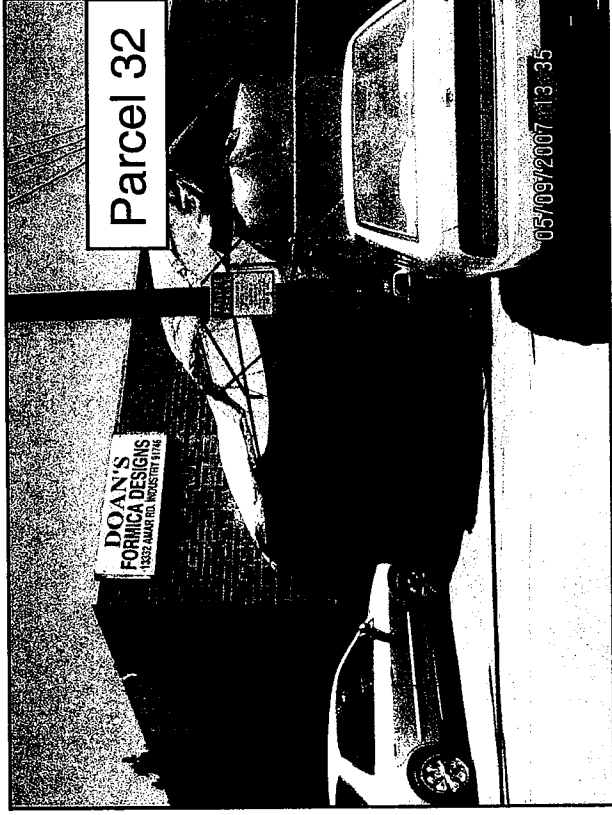
Industry Civic-Recreational-Industrial Redevelopment Project 4



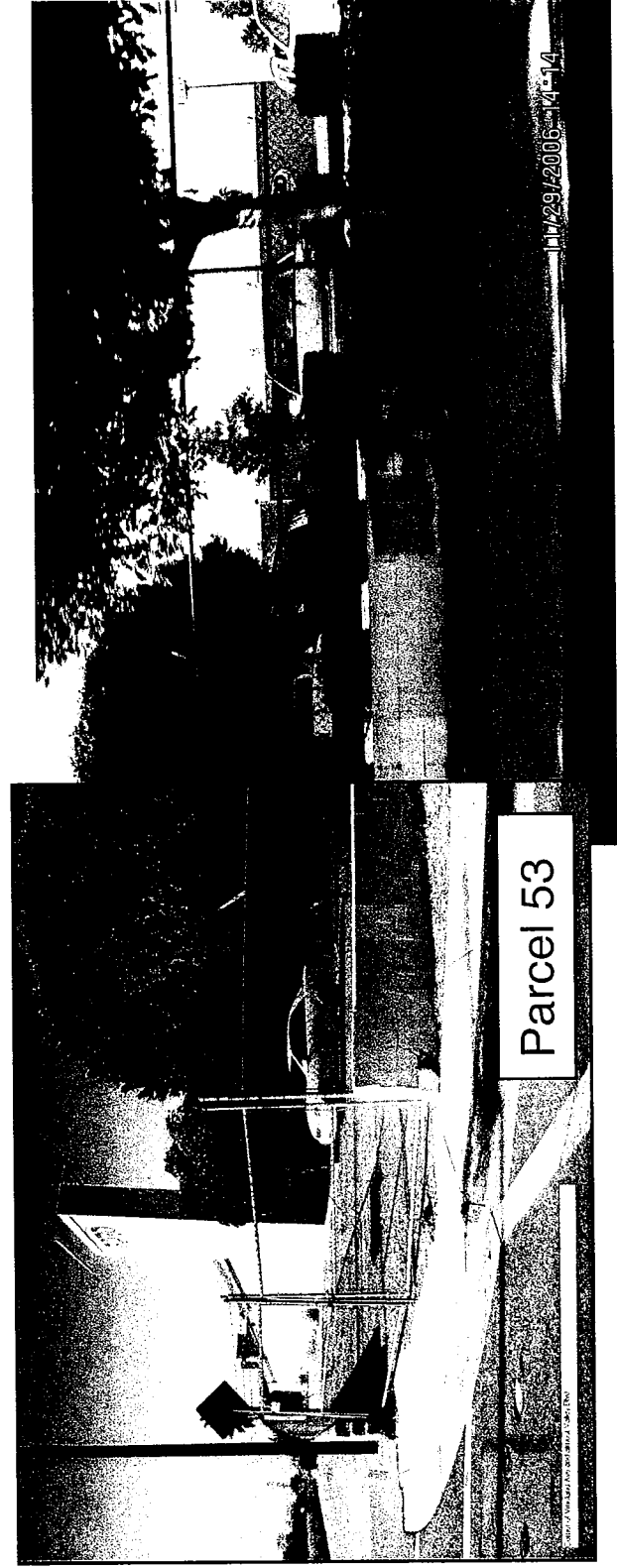
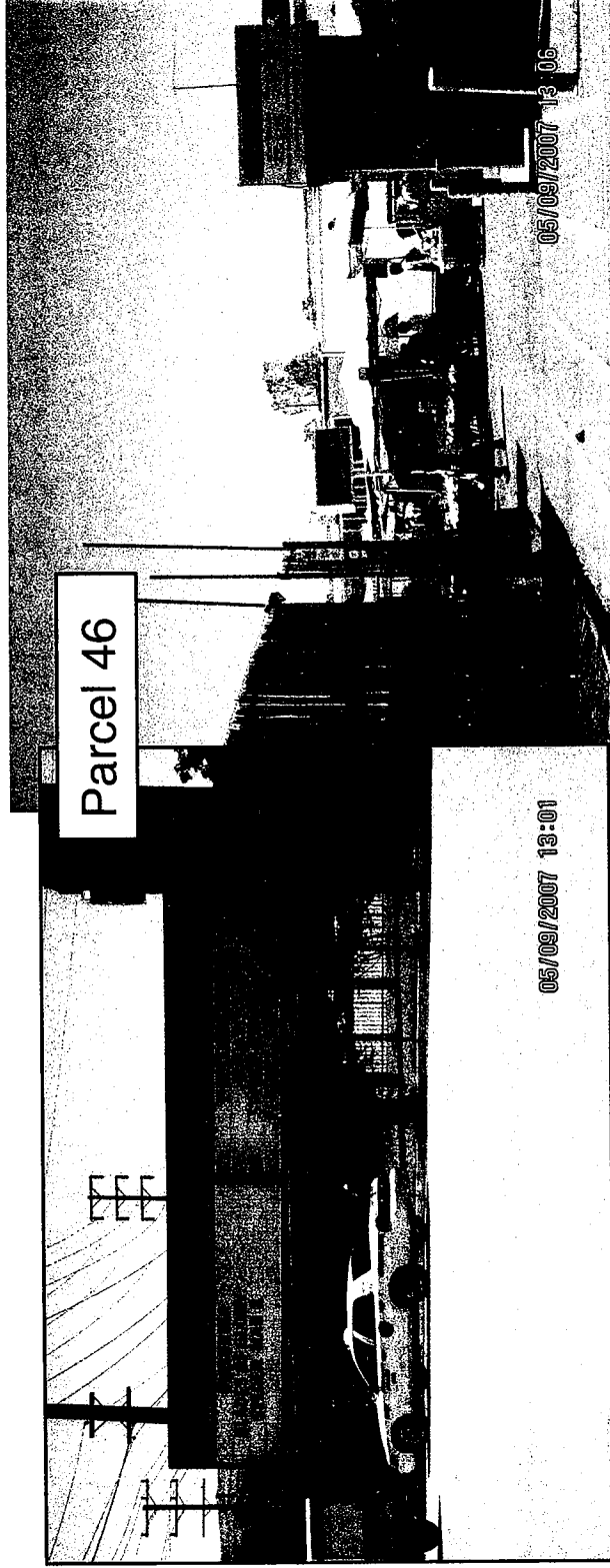
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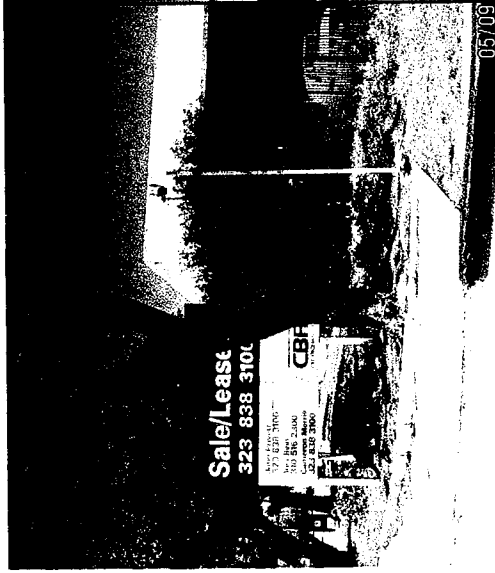
Industry Civic-Recreational-Industrial Redevelopment Project 4



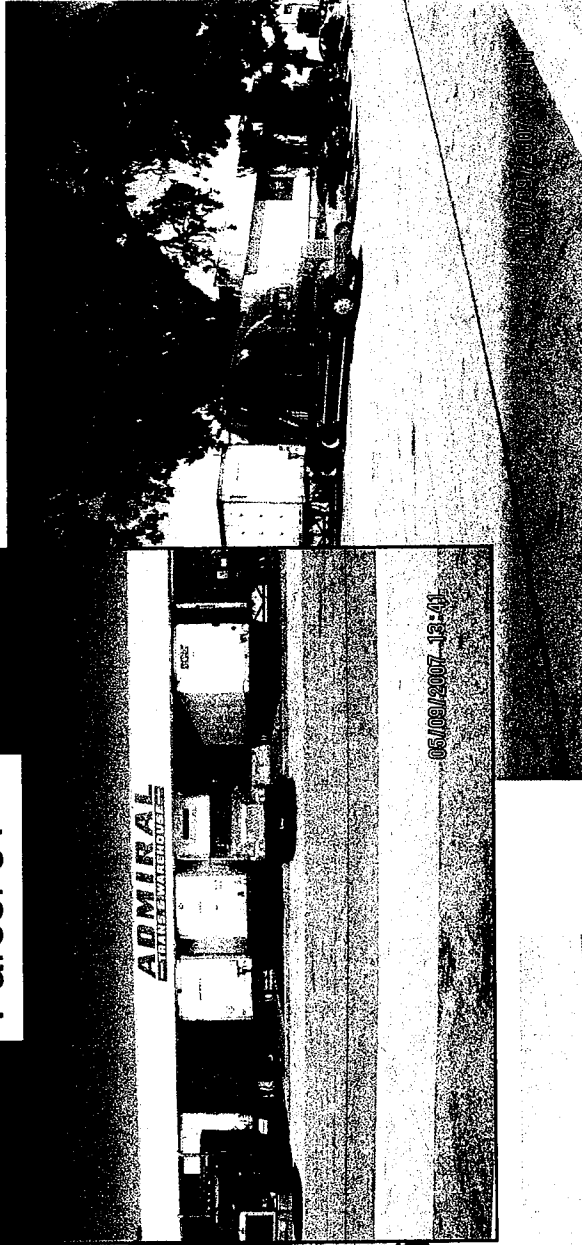
Industry Civic-Recreational-Industrial Redevelopment Project 4



Industry Civic-Recreational-Industrial Redevelopment Project 4

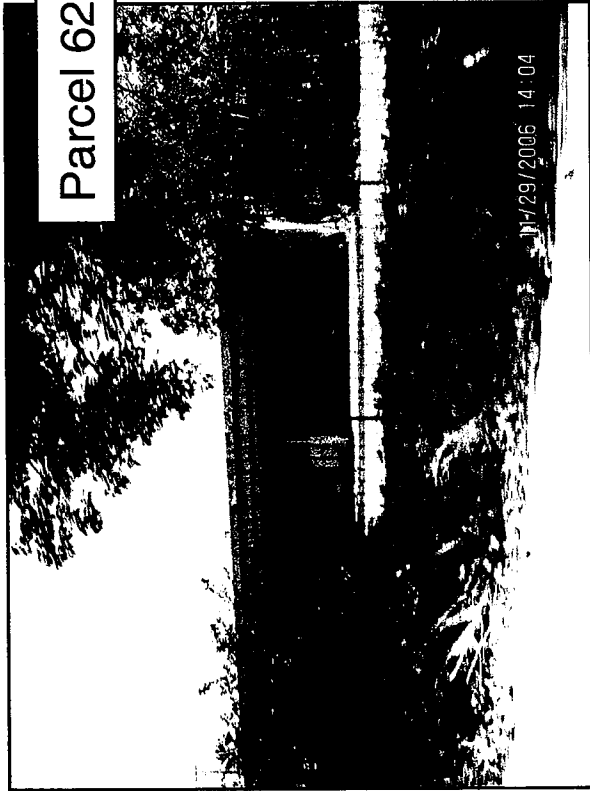


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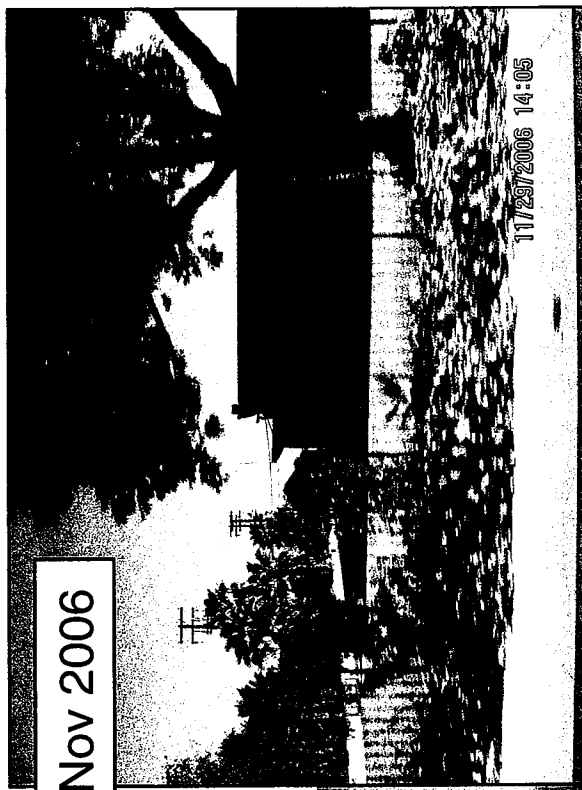
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Industry Civic-Recreational-Industrial Redevelopment Project 4

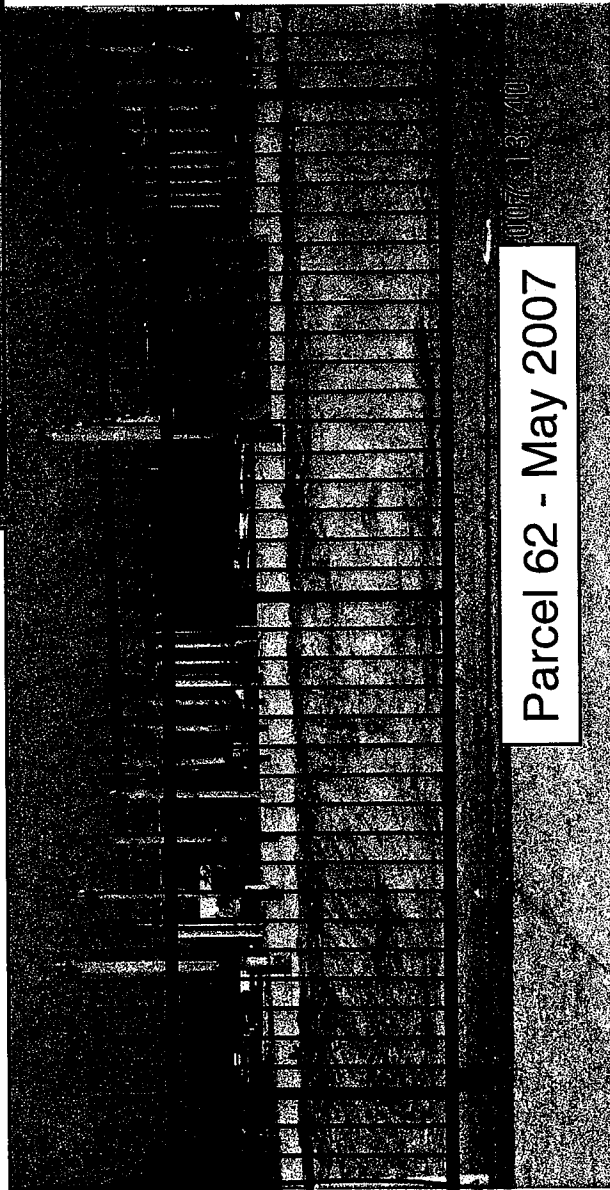


Parcel 62 - Nov 2006

11/29/2006 14:04



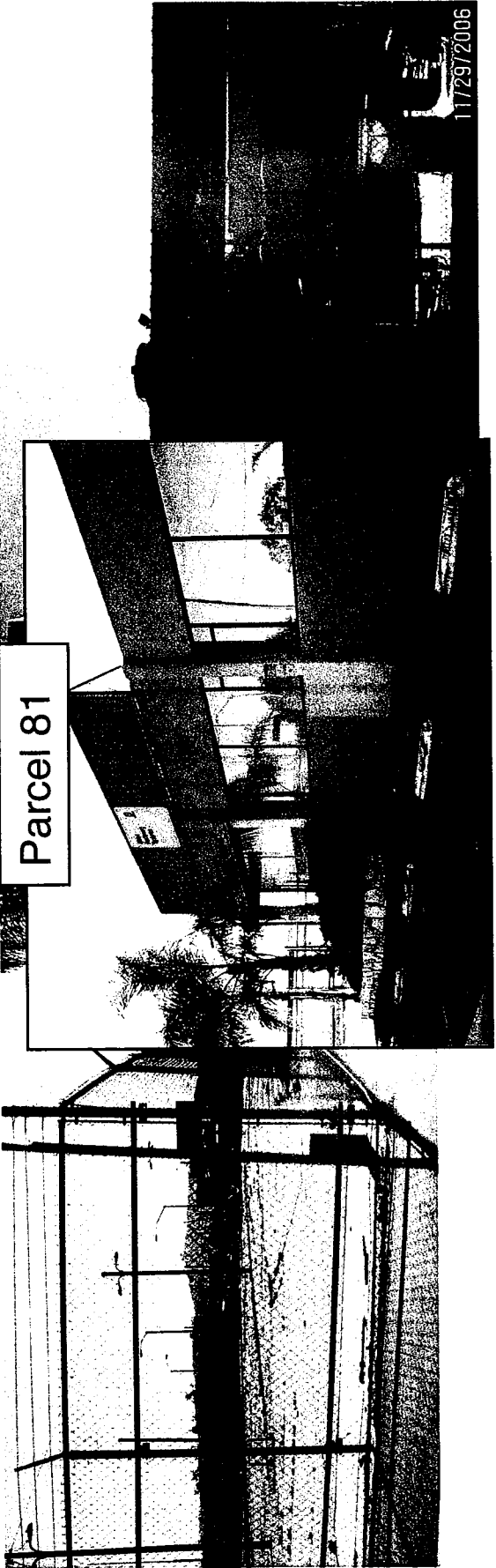
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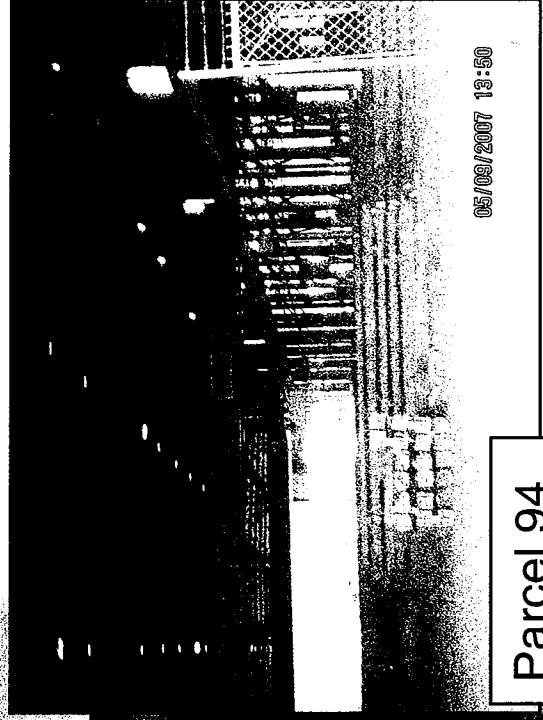
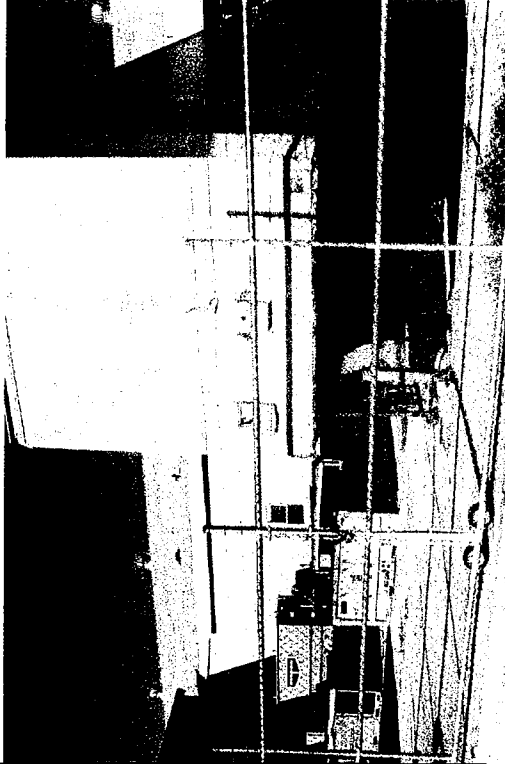
Industry Civic-Recreational-Industrial Redevelopment Project 4



Industry Civic-Recreational-Industrial Redevelopment Project 4



Parcel 92



Parcel 94

Industry Civic-Recreational-Industrial Redevelopment Project 4

